

The House Committee on Judiciary offers the following substitute to SB 162:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 41 of the Official Code of Georgia Annotated, relating to
2 abatement of nuisances generally, so as to clarify the conditions under which property is
3 considered a public health hazard; to change the provisions relating to the power of counties
4 and municipalities to repair, close, or demolish unfit buildings or structures; to provide for
5 the power of counties and municipalities with respect to buildings which are not in
6 compliance with the applicable codes or general nuisance law; to change the definition of
7 certain terms; to define additional terms; to change the provisions relating to county or
8 municipal ordinances relating to unfit buildings or structures; to provide for the adoption and
9 enforcement of county ordinances relating to nuisances; to provide for filing and adjudication
10 of a complaint in rem; to provide for service of process; to provide that costs expended by
11 a local government to make property safe shall be treated and collected in the same manner
12 as tax liens; to change other provisions relating to service of complaints or orders upon
13 parties in interest and owners of unfit buildings or structures; to provide protection for the
14 rights of minors, estates, incompetent persons, unknown persons, and unborn remaindermen;
15 to provide procedures; to change the provisions relating to prior ordinances relating to the
16 repair, closing, or demolition of unfit buildings or structures; to provide for related matters;
17 to provide an effective date; to repeal conflicting laws; and for other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

19 Chapter 2 of Title 41 of the Official Code of Georgia Annotated, relating to abatement of
20 nuisances generally, is amended by striking in its entirety Code Section 41-2-7, relating to
21 the power of counties and municipalities to repair, close, or demolish unfit buildings or
22 structures, and inserting in lieu thereof a new Code Section 41-2-7 to read as follows:

23 "41-2-7.

24 (a) It is found and declared that in the counties and municipalities of this state there is the
25 existence or occupancy of dwellings or other buildings or structures which are unfit for
26

1 human habitation or for commercial, industrial, or business occupancy or use and not in
 2 compliance with the applicable state minimum standard codes as adopted by ordinance or
 3 operation of law or any optional building, fire, life safety, or other codes relative to the safe
 4 use of real property and real property improvements adopted by ordinance in the
 5 jurisdiction where the property is located; or general nuisance law and are inimical to the
 6 welfare and are dangerous and injurious which constitute a hazard to the health, safety, and
 7 welfare of the people of this state; and that a public necessity exists for the repair, closing,
 8 or demolition of such dwellings, buildings, or structures. It is found and declared that in
 9 the counties and municipalities of this state where there is in existence a condition or use
 10 of real estate which renders adjacent real estate unsafe or inimical to safe human habitation,
 11 such use is dangerous and injurious to the health, safety, and welfare of the people of this
 12 state and a public necessity exists for the repair of such condition or the cessation of such
 13 use which renders the adjacent real estate unsafe or inimical to safe human habitation.
 14 Whenever the governing authority of any county or municipality of this state finds that
 15 there exist in such county or municipality dwellings, buildings, or structures which are unfit
 16 for human habitation or for commercial, industrial, or business uses due to dilapidation and
 17 not in compliance with applicable codes; which have defects increasing the hazards of fire,
 18 accidents, or other calamities; which lack of adequate ventilation, light, or sanitary
 19 facilities; or where other conditions exist rendering such dwellings, buildings, or structures
 20 unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or
 21 otherwise inimical to the welfare of the residents of such county or municipality, or vacant,
 22 dilapidated dwellings, buildings, or structures in which drug crimes are being committed,
 23 power is conferred upon such county or municipality to exercise its police power to repair,
 24 close, or demolish the aforesaid dwellings, buildings, or structures in the manner provided
 25 in this Code section and Code Sections 41-2-8 through 41-2-17.

26 (b) All the provisions of this Code section and Code Sections 41-2-8 through 41-2-17
 27 including method and procedure may also be applied to private property where there exists
 28 an endangerment to the public health or safety as a result of an accumulation of weeds,
 29 trash, junk, filth, and other unsanitary or unsafe conditions ~~shall create a public health~~
 30 ~~hazard or a general nuisance~~ to those persons residing or working in the vicinity. A finding
 31 by any governmental health department, health officer, or building inspector that such
 32 property is a health or safety hazard shall constitute prima-facie evidence that said property
 33 is in violation of this Code section and Code Sections 41-2-8 through 41-2-17.

34 (c) The exercise of the powers conferred upon counties in this Code section and in Code
 35 Sections 41-2-8 through 41-2-17 shall be limited to properties located in the unincorporated
 36 areas of such counties."

SECTION 2.

Said chapter is further amended by striking in its entirety Code Section 41-2-8, relating to definitions applicable to Code Sections 41-2-7 through 41-2-17, and inserting in lieu thereof a new Code Section 41-2-8 to read as follows:

"41-2-8.

As used in Code Section 41-2-7, this Code section, and Code Sections 41-2-9 through 41-2-17, the term:

(1) 'Applicable codes' means (A) any optional housing or abatement standard provided in Chapter 2 of Title 8 as adopted by ordinance or operation of law, or other property maintenance standards as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property; (B) any fire or life safety code as provided for in Chapter 2 of Title 25; and (C) any building codes adopted by local ordinance prior to October 1, 1991, or the minimum standard codes provided in Chapter 2 of Title 8 after October 1, provided that such building or minimum standard codes for real property improvements shall be deemed to mean those building or minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.

~~(1)~~(2) 'Closing' means ~~securing and~~ causing a dwelling, building, or structure to be vacated and secured against unauthorized entry.

~~(2)~~(3) 'Drug crime' means an act which is a violation of Article 2 of Chapter 13 of Title 16, known as the 'Georgia Controlled Substances Act.'

~~(3)~~(4) 'Dwellings, buildings, or structures' means any building or structure or part thereof used and occupied for human habitation or commercial, industrial, or business uses, or intended to be so used, and includes any outhouses, improvements, and appurtenances belonging thereto or usually enjoyed therewith and also includes any building or structure of any design. As used in Code Section 41-2-7, this Code section, and Code Sections 41-2-9 through 41-2-17, the term 'dwellings, buildings, or structures' shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.

~~(4)~~(5) 'Governing ~~body~~ authority' means the board of commissioners or sole commissioner of a county or the council, board of commissioners, board of aldermen, or other legislative body charged with governing a municipality.

~~(5)~~(6) 'Municipality' means any incorporated city within this state.

~~(6)~~(7) 'Owner' means the holder of the title in fee simple and every mortgagee of record.

~~(7)~~(8) 'Parties in interest' means persons in possession of said property and ~~all individuals, associations, and corporations who have interest of record in the county~~

1 ~~where the property is located in a dwelling, building, or structure, including executors,~~
 2 ~~administrators, guardians, and trustees~~ having of record in the county in which the
 3 dwelling, building, or structure is located any vested right, title, or interest in or lien upon
 4 such dwelling, building, or structure or the lot, tract, or parcel of real property upon
 5 which the structure is situated or upon which the public health hazard or general nuisance
 6 exists based upon a 50 year title examination conducted in accordance with the title
 7 standards of the State Bar of Georgia, having paid an occupational tax to the governing
 8 authority, or having filed a tax return with the governing authority as to the subject
 9 property.

10 ~~(8)~~(9) 'Public authority' means any member of a governing authority, any housing
 11 authority officer, or any officer who is in charge of any department or branch of the
 12 government of the municipality, county, or state relating to health, fire, or building
 13 regulations or to other activities concerning dwellings, buildings, or structures in the
 14 county or municipality.

15 ~~(9)~~(10) 'Public officer' means the officer or officers who are authorized by Code Section
 16 41-2-7, this Code section, and Code Sections 41-2-9 through 41-2-17 and by ordinances
 17 adopted under Code Section 41-2-7, this Code section, and Code Sections 41-2-9 through
 18 41-2-17 to exercise the powers prescribed by such ordinances or any agent of such officer
 19 or officers.

20 ~~(10)~~(11) 'Repair' means ~~closing a dwelling, building, or structure or~~ altering or improving
 21 a dwelling, building, or structure so as to bring the structure into compliance with the
 22 applicable codes in the jurisdiction where the property is located and the cleaning or
 23 removal of debris, trash, and other materials present and accumulated which create a
 24 health or safety hazard in or about any dwelling, building, or structure.

25 (12) 'Resident' means any person residing in the jurisdiction where the property is
 26 located on or after the date on which the alleged nuisance arose."

27 SECTION 3.

28 Said chapter is further amended by striking in its entirety Code Section 41-2-9, relating to
 29 county or municipal ordinances relating to unfit buildings or structures, and inserting in lieu
 30 thereof a new Code Section 41-2-9 to read as follows:

31 "41-2-9.

32 ~~(a) As used in this Code section, the term 'resident' means any person residing in the~~
 33 ~~affected jurisdiction on or before the date on which the alleged nuisance arose.~~

34 ~~(b)~~(a) In addition to any other remedies or enforcement mechanisms available, upon Upon
 35 the adoption of an ordinance finding that dwelling, building, or structure conditions of the
 36 character described in Code Section 41-2-7 exist within a county or municipality, the

1 governing body of such county or municipality is authorized to adopt ordinances relating
 2 to the dwellings, buildings, or structures within such county or municipality which are unfit
 3 for human habitation or commercial, industrial, or business uses and not in compliance
 4 with applicable codes, which are vacant and being used in connection with the commission
 5 of drug crimes, or which constitute an endangerment to the public health or safety as a
 6 result of unsanitary or unsafe conditions. Such ordinances shall include at least the
 7 following provisions:

8 (1) That it is the duty of the owner of every dwelling, building, structure, or property
 9 within the jurisdiction to construct and maintain such dwelling, building, structure, or
 10 property in conformance with applicable codes in force within the jurisdiction, or such
 11 ordinances which regulate and prohibit activities on property and which declare it to be
 12 a public nuisance to construct or maintain any dwelling, building, structure, or property
 13 in violation of such codes or ordinances;

14 ~~(1)~~(2) That a public officer be designated or appointed to exercise the powers prescribed
 15 by the ordinances;

16 ~~(2)~~(3) That whenever a request is filed with the public officer by a public authority or by
 17 at least five residents of the municipality or by five residents of the unincorporated area
 18 of the county if the property in question is located in the unincorporated area of the
 19 county charging that any dwelling, building, ~~or structure,~~ or property is unfit for human
 20 habitation or for commercial, industrial, or business use ~~or whenever it appears to the~~
 21 ~~public officer (on his own motion) that any dwelling, building, or structure is unfit for~~
 22 ~~human habitation or is unfit for its current commercial, industrial, or business use or and~~
 23 not in compliance with applicable codes; is vacant, ~~dilapidated,~~ and being used in
 24 connection with the commission of drug crimes; or constitutes an endangerment to the
 25 public health or safety as a result of unsanitary or unsafe conditions, the public officer
 26 shall, ~~if his preliminary investigation discloses a basis for such charges, issue and cause~~
 27 ~~to be served upon the owner of and any parties in interest in such dwelling, building, or~~
 28 ~~structure a complaint stating the charges in that respect and containing a notice that a~~
 29 ~~hearing will be held before the public officer (or his designated agent) at a place within~~
 30 ~~the county or municipality in which the property is located, fixed not less than ten days~~
 31 ~~nor more than 30 days after the serving of said complaint; that the owner and any parties~~
 32 ~~in interest shall be given the right to file an answer to the complaint and to appear in~~
 33 ~~person, or otherwise, and give testimony at the place and time fixed in the complaint; and~~
 34 ~~that the rules of evidence prevailing in courts of law or equity shall not be controlling in~~
 35 ~~hearings before the public officer~~ make an investigation or inspection of the specific
 36 dwelling, building, structure, or property. If the officer's investigation or inspection
 37 identifies that any dwelling, building, structure, or property is unfit for human habitation

1 or for commercial, industrial, or business use and not in compliance with applicable
 2 codes; is vacant and being used in connection with the commission of drug crimes; or
 3 constitutes an endangerment to the public health or safety as a result of unsanitary or
 4 unsafe conditions, the public officer may issue a complaint in rem against the lot, tract,
 5 or parcel of real property on which such dwelling, building, or structure is situated or
 6 where such public health hazard or general nuisance exists and shall cause summons and
 7 a copy of the complaint to be served on the owner and parties in interest in such dwelling,
 8 building, or structure. The complaint shall identify the subject real property by
 9 appropriate street address and official tax map reference; identify the owner and parties
 10 in interest; state with particularity the factual basis for the action; and contain a statement
 11 of the action sought by the public officer to abate the alleged nuisance. The summons
 12 shall notify the owner and parties in interest that a hearing will be held before a court of
 13 competent jurisdiction as determined by Code Section 41-2-5, at a date and time certain
 14 and at a place within the county or municipality where the property is located. Such
 15 hearing shall be held not less than 15 days nor more than 45 days after the filing of said
 16 complaint in the proper court. The owner and parties in interest shall have the right to file
 17 an answer to the complaint and to appear in person or by attorney and offer testimony at
 18 the time and place fixed for hearing;

19 ~~(3)~~(4) That if, after such notice and hearing, the ~~public officer~~ court determines that the
 20 dwelling, building, or structure ~~under consideration in question~~ is unfit for human
 21 habitation or is unfit for its current commercial, industrial, or business use ~~or~~ and not in
 22 compliance with applicable codes; is vacant, dilapidated, and being used in connection
 23 with the commission of drug crimes; or constitutes an endangerment to the public health
 24 or safety as a result of unsanitary or unsafe conditions, he the court shall state in writing
 25 ~~his~~ findings of fact in support of such determination and shall issue and cause to be
 26 served upon the owner and any parties in interest that have answered the complaint or
 27 appeared at the hearing thereof an order:

28 (A) If the repair, alteration, or improvement of the said dwelling, building, or structure
 29 can be made at a reasonable cost in relation to the present value of the dwelling,
 30 building, or structure, requiring the owner, ~~or parties in interest,~~ within the time
 31 specified in the order, to repair, alter, or improve such dwelling, building, or structure
 32 so as to ~~render it fit for human habitation or for current commercial, industrial, or~~
 33 ~~business use or to vacate and close the dwelling, building, or structure as a human~~
 34 habitation bring it into full compliance with the applicable codes relevant to the cited
 35 violation and, if applicable, to secure the structure so that it cannot be used in
 36 connection with the commission of drug crimes; or

(B) If the repair, alteration, or improvement of the said dwelling, building, or structure in order to bring it into full compliance with applicable codes cannot be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, ~~or parties in interest~~, within the time specified in the order, to ~~remove or demolish~~ and remove such dwelling, building, or structure and all debris from the property.

For purposes of this Code section, the court shall make its determination of 'reasonable cost in relation to the present value of the dwelling, building, or structure' without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair, alter, or improve a structure may be considered. Income and financial status of the owner shall not be factor in the court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser classification as provided in Chapter 39A of Title 43, qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes in force in the jurisdiction; In no event shall the governing authority of any such county or municipality require removal or demolition of any dwelling, building, or structure except upon a finding that the cost of repair, alteration, or improvement thereof exceeds one-half the value such dwelling, building, or structure will have when repaired to satisfy the minimum requirements of this law;

~~(4)~~(5) That, if the owner ~~or parties in interest fail~~ fails to comply with an order to vacate and close repair or demolish the dwelling, building, or structure, the public officer may cause such dwelling, building, or structure to be repaired, altered, or improved or to be vacated and closed or demolished, ~~and that the~~ The public officer may shall cause to be posted on the main entrance of any the building, dwelling, or structure ~~so closed~~ a placard with the following words:

"This building is unfit for human habitation or commercial, industrial, or business use and does not comply with the applicable codes or has been ordered secured to prevent its use in connection with drug crimes or constitutes an endangerment to public health or safety as a result of unsanitary or unsafe conditions; ~~the~~ The use or occupation of this building ~~for human habitation or for commercial, industrial, or business use~~ is prohibited and unlawful.;"

~~(5)~~ That, if the owner fails to comply with any order to remove or demolish the dwelling, building, or structure, the public officer may cause such dwelling, building, or structure to be removed or demolished; provided, however, that the duties of the public officer, set

1 forth in paragraph (4) of this Code section and this paragraph, shall not be exercised until
 2 the governing body shall have by ordinance ordered the public officer to proceed to
 3 effectuate the purpose of Code Sections 41-2-7, 41-2-8, this Code section, and Code
 4 Sections 41-2-10 through 41-2-17 with respect to the particular property or properties
 5 which the public officer shall have found to be unfit for human habitation or unfit for its
 6 current commercial, industrial, or business use, which property or properties shall be
 7 described in the ordinance;

8 (6) If the public officer has the structure demolished, reasonable effort shall be made to
 9 salvage reusable materials for credit against the cost of demolition. The proceeds of any
 10 moneys received from the sale of salvaged materials shall be used or applied against the
 11 cost of the demolition and removal of the structure, and proper records shall be kept
 12 showing application of sales proceeds. Any such sale of salvaged materials may be made
 13 without the necessity of public advertisement and bid. The public officer and governing
 14 authority are relieved of any and all liability resulting from or occasioned by the sale of
 15 any such salvaged materials, including, without limitation, defects in such salvaged
 16 materials; That the amount of the cost of such vacating and closing or removal or
 17 demolition by the public officer shall be a lien against the real property upon which such
 18 cost was incurred. Said lien shall attach to the real property upon the payment of all costs
 19 of demolition by the county or municipality and the filing of an itemized statement of the
 20 total sum of said costs by the public officer in the office of the clerk of the governing
 21 body of the county or municipality on a lien docket maintained by said clerk for such
 22 purposes. If the dwelling, building, or structure is removed or demolished by the public
 23 officer he shall sell the materials of such dwellings, buildings, or structures and shall
 24 credit the proceeds of such sale against the cost of the removal or demolition and any
 25 balance remaining shall be deposited in the superior court by the public officer, shall be
 26 secured in such manner as may be directed by such court, and shall be disbursed by such
 27 court to the persons found to be entitled thereto by final order or decree of such court.
 28 Nothing in this Code section shall be construed to impair or limit in any way the power
 29 of the county or municipality to define and declare nuisances and to cause their removal
 30 or abatement by summary proceedings or otherwise;

31 (7) That the amount of the cost of demolition, including all court costs, appraisal fees,
 32 administrative costs incurred by the tax commissioner, and all other costs necessarily
 33 associated with the abatement action, including restoration to grade of the real property
 34 after demolition, shall be a lien against the real property upon which such cost was
 35 incurred. Counties and municipal corporations may enforce the collection of any amount
 36 due on such lien for removal or demolition of dwellings, buildings, or structures only in
 37 the following manner:

1 ~~(A) The owner or parties at interest shall be allowed to satisfy the amount due on such~~
 2 ~~lien by paying to the county or municipal corporation, within 30 days after the~~
 3 ~~perfection of said lien, a sum of money equal to 25 percent of the total amount due and~~
 4 ~~by further paying to said county or municipal corporation the remaining balance due~~
 5 ~~on such lien, together with interest at the rate of 7 percent per annum, in three equal~~
 6 ~~annual payments, each of which shall become due and payable on the anniversary date~~
 7 ~~of the initial payment made as hereinabove prescribed;~~

8 ~~(B) Should the property upon which such lien is perfected be sold, transferred, or~~
 9 ~~conveyed by the owner or parties at interest at any time prior to the termination of the~~
 10 ~~said three-year period, then the entire balance due on such lien shall be due and payable~~
 11 ~~to the county or municipal corporation; and~~

12 ~~(C) Should the amount due on such lien, or any portion thereof, be unpaid after the~~
 13 ~~passage of said three-year period, or upon the occurrence of the contingency provided~~
 14 ~~for in subparagraph (B) of this paragraph, the county or municipal corporation may~~
 15 ~~enforce the collection of any amount due on such lien for alteration, repair, removal,~~
 16 ~~or demolition of dwellings, buildings, or structures in the same manner as provided in~~
 17 ~~Code Section 48-5-358 and other applicable state statutes. This procedure shall be~~
 18 ~~subject to the right of redemption by any person having any right, title, or interest in or~~
 19 ~~lien upon said property, all as provided by Article 3 of Chapter 4 of Title 48.~~

20 (b)(1) The lien provided for in paragraph (7) of subsection (a) of this Code section shall
 21 attach to the real property upon the filing of a certified copy of the order requiring repair,
 22 closure, or demolition in the office of the clerk of superior court in the county where the
 23 real property is located and shall relate back to the date of the filing of the lis pendens
 24 notice required under subsection (g) of Code Section 41-2-12. The clerk of superior court
 25 shall record and index such certified copy of the order in the deed records of the county
 26 and enter the lien on the general execution docket. The lien shall be superior to all other
 27 liens on the property, except liens for taxes to which the lien shall be inferior, and shall
 28 continue in force until paid. After filing a certified copy of the order with the clerk of
 29 superior court, the public officer shall forward a copy of the order and a final statement
 30 of costs to the county tax commissioner. It shall be the duty of the county tax
 31 commissioner to collect the amount of the lien in conjunction with the collection of ad
 32 valorem taxes on the property and to collect the amount of the lien as if it were a real
 33 property ad valorem tax, using all methods available for collecting real property ad
 34 valorem taxes, including specifically Chapter 4 of Title 48; provided, however, that the
 35 limitation of Code Section 48-4-78 which requires 12 months of delinquency before
 36 commencing a tax foreclosure shall not apply. The tax commissioner shall remit the
 37 amount collected to the governing authority of the county or municipality whose

1 ordinance is being enforced. Thirty days after imposition of the lien, the unpaid lien
 2 amount shall bear interest and penalties in the same amount as applicable to interest and
 3 penalties on unpaid real property ad valorem taxes.

4 (2) Where the remittance is to a municipality, the tax commissioner shall collect and
 5 retain an amount equal to the cost of administering a lien authorized by this chapter
 6 unless such costs are waived by resolution of the county governing authority. Any such
 7 amount collected and retained for administration shall be deposited in the general fund
 8 of the county to pay the cost of administering the lien.

9 (c) The governing authority may waive and release any such lien imposed on property upon
 10 the owner of such property entering into a contract with the county or municipality
 11 agreeing to a timetable for rehabilitation of the real property or the dwelling, building, or
 12 structure on the property and demonstrating the financial means to accomplish such
 13 rehabilitation.

14 (d) Where the abatement action does not commence in the superior court, review of a court
 15 order requiring the repair, alteration, improvement, or demolition of a dwelling, building,
 16 or structure shall be by direct appeal to the superior court under Code Section 5-3-29.

17 (e) In addition to the procedures and remedies in this chapter, a governing authority may
 18 provide by ordinance that designated public officers may issue citations for violations of
 19 state minimum standard codes, optional building, fire, life safety, and other codes adopted
 20 by ordinance, and conditions creating a public health hazard or general nuisance, and seek
 21 to enforce such citations in a court of competent jurisdiction prior to issuing a complaint
 22 in rem as provided in this Code section.

23 (f) Nothing in this Code section shall be construed to impair or limit in any way the power
 24 of the county or municipality to define and declare nuisances and to cause their removal
 25 or abatement by summary proceedings or otherwise."

26 SECTION 4.

27 Said chapter is further amended by striking in its entirety Code Section 41-2-12, relating to
 28 service of complaints or orders upon parties in interest and owners of unfit buildings or
 29 structures, and inserting in lieu thereof a new Code Section 41-2-12 to read as follows:

30 "41-2-12.

31 (a) Complaints ~~or orders~~ issued by a public officer pursuant to an ordinance adopted under
 32 Code Sections 41-2-7 through 41-2-11, this Code section, and Code Sections 41-2-13
 33 through 41-2-17 shall, in be served in the following manner. In all cases, be served upon
 34 each person in possession of said property, each owner, and each party in interest, and the
 35 return of service signed by the public officer or his agent or an affidavit of service executed
 36 by any citizen of this state, reciting that a copy of such complaint or orders was served

1 upon each person in possession of said property, each owner, and each party in interest
 2 personally or by leaving such copy at the place of his residence, shall be sufficient evidence
 3 as to the service of such person in possession, owner, and party in interest a copy of the
 4 complaint and summons shall be conspicuously posted on the subject dwelling, building,
 5 or structure within three business days of filing of the complaint and at least ten days prior
 6 to the date of the hearing. A copy of the complaint and summons shall be served in one of
 7 the following ways:

8 (1) Personal service upon each owner and party in interest if such parties are residents
 9 of the county. Service shall be perfected at least ten days prior to the date of the hearing.
 10 Service may be made by the public officer designated by ordinance to abate nuisances or
 11 by any law enforcement officer of the county or municipality whose ordinance is being
 12 enforced; and a return of service, filed with the clerk of the appropriate court, shall be
 13 deemed sufficient proof that service was perfected;

14 (2) Pursuant to the provisions of Article 5 of Chapter 4 of Title 48; or

15 (3) Statutory overnight delivery.

16 (b) If any of the owners owner and parties or party in interest shall reside out of the county
 17 or municipality, service shall be perfected by causing a copy of such complaint or orders
 18 to be served upon such party or parties by the sheriff or any lawful deputy of the county of
 19 the residence of such party or parties or such service may be made by any citizen; and the
 20 return of such sheriff or lawful deputy or the affidavit of such citizen that such party or
 21 parties were served either personally or by leaving a copy of the complaint or orders at the
 22 residence shall be conclusive as to such service is a resident of this state but resides outside
 23 of the county, service shall be perfected by certified mail or statutory overnight delivery,
 24 return receipt requested, to the most recent address shown in county tax filings and mailed
 25 at least 14 days prior to the date of the hearing.

26 (c) Nonresidents of this state, whose mailing address is known, shall be served by ~~posting~~
 27 a copy of such complaint or orders in a conspicuous place on premises affected by the
 28 complaint or orders certified mail or statutory overnight delivery, return receipt requested,
 29 mailed at least 14 days prior to the date of the hearing. For nonresidents whose mailing
 30 address is unknown, a notice stating the date, time, and place of the hearing shall be
 31 published in the newspaper in which the sheriff's advertisements appear in such county
 32 once a week for two consecutive weeks prior to the hearing. Where the address of such
 33 nonresidents is known, a copy of such complaint or orders shall be mailed to them by
 34 registered or certified mail or statutory overnight delivery.

35 (d) In the event either the owner or any party in interest is a minor, an estate, an
 36 incompetent or an insane person, or person laboring under disabilities, the guardian or other
 37 personal representative of such person shall be served and if such guardian or personal

1 representative resides outside the county ~~or municipality~~ or is a nonresident of this state,
 2 he or she shall be served as provided for in subsection (c) of this Code section, ~~or this~~
 3 ~~subsection in such cases.~~ If such minor ~~or insane person or person laboring under~~
 4 ~~disabilities~~ owner or party in interest has no guardian or personal representative, ~~or in the~~
 5 ~~event such minor or insane person lives outside the county or municipality or is a~~
 6 ~~nonresident,~~ service shall be perfected by serving such minor or insane person personally
 7 ~~or by leaving a copy at the place of his residence which shall be sufficient evidence as to~~
 8 ~~the service of such person or persons; in the case of other persons who live outside of the~~
 9 ~~county or municipality or are nonresidents, service shall be perfected by serving the judge~~
 10 ~~of the probate court of the county wherein such property is located~~ at least 30 days prior
 11 to the date of the hearing ~~who~~ which judge shall stand in the place of and protect the rights
 12 of such minor, estate, or incompetent ~~or insane~~ person or appoint a guardian ad litem for
 13 such person.

14 (e) In the event of unknown persons or unborn remaindermen who are likely to have any
 15 rights in the property or interest or the proceeds thereof, the judge of the probate court of
 16 the county wherein such property or interest is located shall be personally served at least
 17 30 days prior to the date of the hearing, and it shall be the duty of the judge of the probate
 18 court to stand in the place of and protect the rights of such unknown parties or unborn
 19 remaindermen.

20 (e)(f) In the event the whereabouts of any owner or party in interest is unknown and the
 21 same cannot be ascertained by the public officer in the exercise of reasonable diligence or
 22 if any owner or party in interest cannot, after due diligence, be served as provided in this
 23 Code section, and the public officer shall make an affidavit to that effect, ~~then the service~~
 24 ~~of such complaint or order upon such persons shall be made in the same~~ and serve by
 25 publication in the manner as provided in subsection (c) of this Code section, ~~or service may~~
 26 ~~be perfected upon any person, firm, or corporation holding itself out as an agent for the~~
 27 ~~property involved~~ and such publication shall be sufficient proof that service was perfected.

28 (f)(g) A notice of lis pendens ~~copy of such complaint or orders~~ shall also be filed in the
 29 ~~proper office or offices for the filing of lis pendens notice~~ office of the clerk of superior
 30 court in the county in which the dwelling, building, or structure is located at the time of
 31 filing the complaint in the appropriate court. Such notice and such filing of the complaint
 32 ~~or orders~~ shall have the same force and effect as other lis pendens notices provided by law.
 33 ~~Any such complaint or orders or an appropriate lis pendens notice may contain a statement~~
 34 ~~to the effect that a lien may arise against the described property and that an itemized~~
 35 ~~statement of such lien is maintained on a lien docket maintained by the clerk of the~~
 36 ~~governing body of the county or municipality.~~

1 (h) Orders and other filings made subsequent to service of the initial complaint shall be
2 served in the manner provided in this Code section on the owner and any party in interest
3 who answers the complaint or appears at the hearing. Any party who fails to answer or
4 appear at the hearing shall be deemed to have waived all further notice in the proceedings."

5 **SECTION 5.**

6 Said chapter is further amended by striking in its entirety Code Section 41-2-17, relating to
7 prior ordinances relating to repair, closing, or demolition of unfit buildings or structures, and
8 inserting in lieu thereof a new Code Section 41-2-17 to read as follows:

9 "41-2-17.

10 Ordinances relating to the subject matter of Code Sections 41-2-7 through 41-2-16 and this
11 Code section adopted prior to ~~April 1, 1966~~ July 1, 2001, shall have the same force and
12 effect on and after said date as ordinances adopted subsequent to and by authority of these
13 Code sections."

14 **SECTION 6.**

15 This Act shall become effective on July 1, 2001.

16 **SECTION 7.**

17 All laws and parts of laws in conflict with this Act are repealed.