

House Bill 474

By: Representatives Marin of the 66th, Floyd of the 69th, Post 2, Coan of the 67th, Post 1, Rice of the 64th and Sheldon of the 71st, Post 2

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 change certain provisions relating to definitions
3 relative to county and municipal abatement powers; to change certain provisions relating to
4 county or municipal ordinances relating to unfit buildings or structures; to change certain
5 provisions relating to determinations by public officers that dwellings, buildings, or
6 structures are unfit or vacant, dilapidated, or being used in connection with commission of
7 drug crimes; to repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Chapter 2 of Title 41 of the Official Code of Georgia Annotated, relating to abatement of
11 nuisances generally, is amended in Code Section 41-2-8, relating to definitions relative to
12 county and municipal abatement powers, by inserting a new paragraph to read as follows:

13 "(5.1) 'Graffiti' means any inscriptions, words, figures, paintings, or other defacements
14 that are written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or
15 otherwise affixed to any surface of public or private property without prior authorization
16 of the owner or occupant of the property by means of any aerosol paint container,
17 broad-tipped marker, gum label, paint stick, graffiti stick, etching equipment, brush, or
18 other device capable of scarring or leaving a visible mark on any surface."

19 **SECTION 2.**

20 Said chapter is further amended in subsection (b) of Code Section 41-2-9, relating to county
21 or municipal ordinances relating to unfit buildings or structures, by striking paragraph (4) and
22 inserting in lieu thereof the following:

23 "(4) That if, after such notice and hearing, the court determines that the dwelling,
24 building, or structure in question is unfit for human habitation or is unfit for its current
25 commercial, industrial, or business use and not in compliance with applicable codes; is

1 vacant and being used in connection with the commission of drug crimes; or constitutes
 2 an endangerment to the public health or safety as a result of unsanitary or unsafe
 3 conditions, the court shall state in writing findings of fact in support of such
 4 determination and shall issue and cause to be served upon the owner and any parties in
 5 interest that have answered the complaint or appeared at the hearing an order:

6 (A) If the repair, alteration, or improvement of the said dwelling, building, or structure
 7 can be made at a reasonable cost in relation to the present value of the dwelling,
 8 building, or structure, requiring the owner, within the time specified in the order, to
 9 repair, alter, or improve such dwelling, building, or structure so as to bring it into full
 10 compliance with the applicable codes relevant to the cited violation and, if applicable,
 11 to secure the structure so that it cannot be used in connection with the commission of
 12 drug crimes; or

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

19 For purposes of this Code section, the court shall make its determination of 'reasonable
 20 cost in relation to the present value of the dwelling, building, or structure' without
 21 consideration of the value of the land on which the structure is situated; provided,
 22 however, that costs of the preparation necessary to repair, alter, or improve a structure
 23 may be considered; and provided, further, that if the unsatisfactory condition is limited
 24 solely to the presence of graffiti, the dwelling, building, or structure shall not be ordered
 25 demolished or closed but may be ordered repaired. Income and financial status of the
 26 owner shall not be factor in the court's determination. The present value of the structure
 27 and the costs of repair, alteration, or improvement may be established by affidavits of real
 28 estate appraisers with a Georgia appraiser classification as provided in Chapter 39A of
 29 Title 43, qualified building contractors, or qualified building inspectors without actual
 30 testimony presented. Costs of repair, alteration, or improvement of the structure shall be
 31 the cost necessary to bring the structure into compliance with the applicable codes
 32 relevant to the cited violations in force in the jurisdiction;"

33 SECTION 3.

34 Said chapter is further amended by striking subsection (a) of Code Section 41-2-10, relating
 35 to determinations by public officers that dwellings, buildings, or structures are unfit or

1 vacant, dilapidated, or being used in connection with commission of drug crimes, and
 2 inserting in lieu thereof the following:

3 "(a) An ordinance adopted by a county or municipality under Code Sections 41-2-7
 4 through 41-2-9, this Code section, and Code Sections 41-2-11 through 41-2-17 shall
 5 provide that the public officer may determine, under existing ordinances, that a dwelling,
 6 building, or structure is unfit for human habitation or is unfit for its current commercial,
 7 industrial, or business use if he finds that conditions exist in such building, dwelling, or
 8 structure which are dangerous or injurious to the health, safety, or morals of the occupants
 9 of such dwelling, building, or structure; of the occupants of neighborhood dwellings,
 10 buildings, or structures; or of other residents of such county or municipality. Such
 11 conditions may include the following (without limiting the generality of the foregoing):

12 (1) Defects therein increasing the hazards of fire, accidents, or other calamities;

13 (2) Lack of adequate ventilation, light, or sanitary facilities;

14 (3) Dilapidation;

15 (4) Disrepair;

16 (5) Structural defects; ~~and~~

17 (6) Uncleanliness; or

18 (7) The presence of any graffiti which are visible from adjoining public or private property.

19 Such ordinance may provide additional standards to guide the public officer, or his agents,
 20 in determining the fitness of a dwelling, building, or structure for human habitation or for
 21 its current commercial, industrial, or business use."

22 **SECTION 4.**

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