

House Bill 714

By: Representatives Bruce of the 45th, Burkhalter of the 36th, Mosby of the 59th, Post 3,
Campbell of the 39th and Heckstall of the 48th, Post 3

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 74 of Title 36 of the Official Code of Georgia Annotated, the "Local
2 Government Code Enforcement Boards Act," so as to define a certain term; to provide
3 requirements for an order to comply issued by a local code enforcement board; to provide
4 for the specificity of fines; to repeal certain provision relative to an administrative fine; to
5 repeal certain provisions relative to an environmental court; to specify the venue and form
6 of appeals; to provide for the delivery of notice; to make editorial revisions; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 74 of Title 36 of the Official Code of Georgia Annotated, the "Local Government
11 Code Enforcement Boards Act," is amended by striking paragraph (6) of Code Section
12 36-74-4, relating to definitions, and inserting in lieu thereof the following:

13 "(6) 'Repeat violation' means any violation of county or municipal codes or ordinances
14 by an owner or co-owner whom the enforcement board has previously found to be in
15 violation of a code or ordinance within one year prior to such violation.

16 (7) 'Violation involving the health or safety of a third party' means a violation that
17 creates a legitimate concern for the health and safety of a ~~third party~~ third-party occupant
18 of a dwelling place or that creates an immediate and substantial danger to the
19 environment ~~or members of the community at large, especially minor children.~~"

20 **SECTION 2.**

21 Said chapter is further amended by striking in its entirety subsection (d) of Code Section
22 36-74-7, relating to the calling of hearings and hearing proceedings, and inserting in lieu
23 thereof the following:

24 "(d) At the conclusion of the hearing, the enforcement board shall issue findings of fact,
25 based on evidence of record and conclusions of law, and shall issue an order ~~affording the~~

1 ~~proper relief to comply or an order to pay an administrative fine~~ consistent with powers
 2 granted in this chapter. The findings and conclusions and any order imposed shall be by
 3 motion approved by a majority of those members present and voting, except that at least
 4 four members of a seven-member enforcement board, ~~or three members of a five-member~~
 5 ~~enforcement board, or two members of a three-member enforcement board;~~ must vote in
 6 order for the action to be official. ~~The order may include a notice that it must be complied~~
 7 ~~with by a specified date and that a fine may be imposed if the order is not complied with~~
 8 ~~by said date. A certified copy of such order may be recorded in the public records of the~~
 9 ~~county and shall constitute notice to any subsequent purchasers, successors in interest, or~~
 10 ~~assigns if the violation concerns real property, and the findings therein shall be binding~~
 11 ~~upon the violator and, if the violation concerns real property, any subsequent purchasers,~~
 12 ~~successors in interest, or assigns. If an order is recorded in the public records pursuant to~~
 13 ~~this subsection and the order is complied with by the date specified in the order, the~~
 14 ~~enforcement board shall issue an order acknowledging compliance that shall be recorded~~
 15 ~~in the public records. A hearing is not required to issue such an order acknowledging~~
 16 ~~compliance.~~

17 (e) An order to comply shall include notice that it must be complied with by a specified
 18 date and that an administrative fine may be imposed if the order is not complied with by
 19 such date.

20 (f) An order to pay a fine shall specify the amount of the fine as determined and voted
 21 upon by the enforcement board, as well as the date and time the fine is due. A certified
 22 copy of such order may be recorded in the public records of the county and shall constitute
 23 notice to any subsequent purchaser, successor in interest, or assign if the violation concerns
 24 real property, and the findings therein shall be binding upon the violator and, if the
 25 violation concerns real property, and subsequent purchaser, successor in interest, or assign.
 26 If an order is recorded in the public records pursuant to this subsection and the fine is paid
 27 by the date and time specified in the order, the enforcement board shall issue an order
 28 acknowledging that the fine has been paid in full and such order shall be recorded in the
 29 public records. A hearing is not required to issue such an order acknowledging the
 30 payment of a fine.

31 (g) The enforcement board may issue an order to pay a fine against the violator if the cited
 32 violation was not corrected within the time specified on the code inspector's notice or if
 33 an order to comply was not satisfied within the time specified in the order, even if said
 34 violation was corrected and brought into compliance prior to the hearing at which the fine
 35 is imposed."

1 "36-74-11.

2 An aggrieved party, including the local governing body, may appeal a final administrative
3 order of an enforcement board to the superior court of the county in which the subject
4 property is located. Such an appeal shall be a ~~hearing de novo~~ in the form of a writ of
5 certiorari governed by Chapter 4 of Title 5 and shall be heard on the record. An appeal
6 shall be filed within 30 days of the execution of the order to be appealed."

7 **SECTION 5.**

8 Said chapter is further amended by striking in its entirety subsection (a) of Code Section
9 36-74-12, relating to the requirement and form of notice, and inserting in lieu thereof the
10 following:

11 "(a) All notices required by this chapter shall be provided to the alleged violator by
12 certified mail or statutory overnight delivery, return receipt requested; by hand delivery by
13 the sheriff or other law enforcement officer, code inspector, or other person designated by
14 the local governing body; ~~or~~ by leaving the notice at the violator's usual place of residence
15 with any person residing therein who is ~~above~~ over 15 years of age and informing such
16 person of the contents of the notice; ~~or by leaving the notice at the violator's usual place~~
17 of business with a manager or other upper-level employee who is over 15 years of age and
18 informing such person of the contents of the notice."

19 **SECTION 6.**

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