

House Bill 903

By: Representative Benfield of the 85<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 6 of Chapter 3 of Title 8 of the Official Code of Georgia Annotated,  
2 relating to documentation by home inspectors, so as to provide for new definitions; to change  
3 a provision relating to documentation by home inspectors; to provide for more restrictive  
4 requirements for home inspectors by political subdivisions; to provide for the duty of care  
5 of home inspectors; to provide for related matters; to repeal conflicting laws; and for other  
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 6 of Chapter 3 of Title 8 of the Official Code of Georgia Annotated, relating to  
10 documentation by home inspectors, is amended by striking said article in its entirety and  
11 inserting in lieu thereof the following:

12 "8-3-330.

13 As used in this article, the term:

14 (1) 'Client' means the person on whose behalf a home or single-family dwelling is being  
15 inspected.

16 (2) 'Home ~~home~~ inspector' means any person, except an employee of a county,  
17 municipality, or political subdivision while engaged in the performance of the duties of  
18 his or her employment, who, for consideration, inspects and reports on the condition of  
19 any home or single-family dwelling or the grounds, roof, exterior surface, garage or  
20 carport, structure, attic, basement or crawl space, electrical system, heating system,  
21 air-conditioning system, plumbing, on-site sewerage disposal, pool or hot tub, fireplace,  
22 kitchen, appliances, or any combination thereof for a prospective purchaser or seller, but  
23 shall not include a plumber, electrician, professional engineer, person engaged in  
24 structural pest control, real estate appraiser, real estate broker or agent, heating,  
25 ventilation, air conditioning, or refrigeration contractor who is licensed in this state while

1 acting within the scope of that license, roofer, general contractor, or remodeler while  
 2 acting within the scope of that occupation.

3 8-3-331.

4 Every home inspector shall provide to the ~~person on whose behalf a home or single-family~~  
 5 ~~dwelling is being inspected~~ client a written document specifying:

6 (1) The scope of the inspection, including those structural elements, systems, and  
 7 subsystems to be inspected;

8 (2) That the inspection is a visual inspection; and

9 (3) That the home inspector will notify in writing the ~~person on whose behalf such~~  
 10 ~~inspection is being made~~ client of any defects noted during the inspection, along with any  
 11 recommendation that certain experts be retained to determine the extent and corrective  
 12 action necessary for such defects.

13 8-3-331.1.

14 This article shall be cumulative to and shall not prohibit or ~~Nothing in this article shall~~  
 15 preempt a political subdivision from ~~prescribing~~ enacting licensing requirements or rules  
 16 and regulations for home inspectors that are more restrictive than the minimum standards  
 17 and requirements set forth in this article.

18 8-3-332.

19 Any person violating ~~any of the provisions~~ Code Section 8-3-331 of this article shall be  
 20 guilty of a misdemeanor.

21 8-3-333.

22 (a) Every home inspector shall comply with the provisions of this article. The duty of  
 23 every home inspector shall be to the client.

24 (b) Nothing in this article shall be construed to allow home inspectors who are not  
 25 registered engineers to perform any analysis of the systems, components, or structural  
 26 integrity of a dwelling that would constitute the practice of civil, electrical, or mechanical  
 27 engineering.

28 (c) It is the duty of a home inspector who is not licensed as an architect or registered as a  
 29 professional engineer to conduct a home inspection with the degree of care that a  
 30 reasonably prudent home inspector would exercise.

31 (d) Every written report prepared by a home inspector and the information contained  
 32 therein shall be deemed confidential and shall not be disclosed without the express consent  
 33 of the client.

1 (e) It shall be unlawful and an unfair business practice as contemplated by Code Section  
2 10-1-393 for a home inspector to:

3 (1) Perform or offer to perform, for any additional fee, any repair, improvement, or  
4 replacement of any component or system in a residential building for which such  
5 inspector, affiliate, partner, or relative thereof shall have prepared a home inspection  
6 report prior to the close of escrow;

7 (2) Inspect any residential building in which such inspector, affiliate, partner, or relative  
8 thereof has a financial interest or any interest in the transfer thereof, including the receipt  
9 of any commission as an agent;

10 (3) Offer to provide or provide any commission, referral fee, or kickback to the seller of  
11 any inspected residential building, or to the agent of either or both the seller and buyer  
12 of such building, for the referral of any business to such inspector, affiliate, partner,  
13 director, officer, or relative thereof; or

14 (4) Agree to perform any home inspection or prepare any home inspection report for  
15 which compensation or employment is contingent upon the conclusions of the home  
16 inspection report, preestablished or prescribed findings, or the closing of a real estate  
17 transaction.

18 (f) A contractual provision that waives, limits, or disclaims the duties owed pursuant to  
19 this article or the legal liability of a home inspector shall be void as contrary to public  
20 policy."

21 **SECTION 2.**

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