

House Bill 1217

By: Representatives Jerguson of the 22nd, Williams of the 4th, Glanton of the 76th, and Tumlin of the 38th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and
2 businesses, so as to provide for legislative intent; to provide definitions; to create the State
3 Licensing Board of Home Inspectors; to provide for its membership, appointment, filling of
4 vacancies, terms of office, qualifications, powers and duties, staffing, and meetings; to
5 provide for licensing of home inspectors; to provide for qualifications and reciprocity under
6 certain circumstances; to provide for renewals and continuing education; to prohibit certain
7 acts; to provide for applicability; to provide for home inspection reports and their contents;
8 to provide for insurance requirements; to provide for related matters; to repeal Article 6 of
9 Chapter 3 of Title 8 of the Official Code of Georgia Annotated, relating to documentation
10 by home inspectors; to provide an effective date; to repeal conflicting laws; and for other
11 purposes.

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

13 **SECTION 1.**

14 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
15 is amended by adding a new Chapter 39B to read as follows:

16 **"CHAPTER 39B**

17 **43-39B-1.**

18 It is the intent of the General Assembly in the interest of public health, safety, and welfare
19 to require the regulation of home inspectors and to assure that consumers of home
20 inspection services can rely on the competence of home inspectors. The practice of home
21 inspection is declared a business or profession affecting the public interest, and this chapter
22 shall be liberally construed so as to accomplish the intent and purposes stated in this
23 chapter.

1 43-39B-2.

2 As used in this chapter, the term:

3 (1) 'Board' means the State Licensing Board of Home Inspectors.

4 (2) 'Business organization' means any partnership, corporation, limited liability entity,
5 business trust, joint venture, or other legal entity, other than an individual person, doing
6 business or seeking, offering, or contracting to do business as a home inspector or
7 otherwise performing or acting as a home inspector.

8 (3) 'Client' means any person who engages or seeks to engage the services of a home
9 inspector for the purpose of obtaining inspection of, and a written report upon, the
10 condition of a residential building.

11 (4) 'Component' means a readily accessible and observable aspect of a system, such as
12 a floor or wall, but not individual pieces such as boards or nails where many similar
13 pieces make up a system.

14 (5) 'Home inspection' means a visual analysis provided for compensation for the purpose
15 of providing a professional opinion of the condition of a building, its carports and
16 garages, and any reasonably accessible installed components and the operation of the
17 building systems, including, but not limited to, the controls normally operated by the
18 owner, for the following components of a residential building of four units or fewer or,
19 as applicable, of a residential unit: heating system, electrical system, cooling system,
20 plumbing system, structural components, foundation, roof covering, exterior and interior
21 components, and site aspects as they affect the building. A home inspection shall not be
22 required to include the condition of systems or components which are not readily
23 accessible.

24 (6) 'Home inspection report' means a written report prepared for compensation by a
25 home inspector issued to a client after a home inspection.

26 (7) 'Home inspector' means a person who is licensed pursuant to this chapter as a home
27 inspector and who engages in the business of performing home inspections and writing
28 home inspection reports.

29 (8) 'Readily accessible' means available for visual inspection without requiring the
30 moving of personal property, dismantling, destructive measures, or any action that likely
31 will involve risk to persons or property.

32 (9) 'Residential building' means a structure consisting of from one to four family
33 dwelling units.

34 (10) 'Residential unit' means an individual unit of a residential building or a single living
35 unit within a residential structure with a height of two or more stories, when such
36 residential structure is composed of condominium units, townhouses, or such similar
37 living units.

1 (11) 'Significantly deficient' means a system or component that is unsafe or not
2 functioning.

3 (12) 'System' means a combination of interactive or interdependent components
4 assembled to carry out one or more functions.

5 (13) 'Technically exhaustive' means an investigation that involves dismantling or the
6 extensive use of advanced techniques, measurements, instruments, testing, calculations,
7 or other means.

8 43-39B-3.

9 (a) There is created the State Licensing Board of Home Inspectors which shall consist of
10 five members. The board shall be assigned to the Office of the Secretary of State for
11 administrative purposes, shall be under his or her jurisdiction, and shall operate in
12 accordance with and pursuant to the provisions of Chapter 1 of this title. All members shall
13 be residents of the State of Georgia. One member shall be a public member. The public
14 member of the board shall not be connected in any way with the practice of home
15 inspection. Four members shall be home inspectors. The home inspector members who
16 are initially appointed to the board shall have been actively engaged in the practice of home
17 inspection for at least five years immediately preceding their appointment, shall have
18 performed a minimum of 500 home inspections for compensation, and shall demonstrate
19 that they have passed an examination administered by a national examination organization
20 that complies with the standards established by the National Commission of Certifying
21 Agencies. After July 1, 2010, all home inspectors appointed to be members of the board
22 shall be required to be licensed pursuant to this chapter.

23 (b) The Governor shall appoint the members of the board, subject to confirmation by the
24 Senate, with consideration given to appropriate geographic representation. Any such
25 appointments made when the Senate is not in session shall be effective until acted upon by
26 the Senate.

27 (c) The term of each member of the board shall be five years, except that the initial four
28 home inspector members shall be appointed to serve terms expiring July 1, 2010; July 1,
29 2011; July 1, 2012; and July 1, 2013, respectively. In the event of a vacancy, the Governor
30 shall appoint a person to fill such vacancy, and the person so appointed shall serve for the
31 remainder of the unexpired term.

32 43-39B-4.

33 (a) The board shall meet at least quarterly each year for the purpose of transacting such
34 business as may properly come before it and of overseeing its operations.

1 (b) In addition to and consistent with the powers granted in Chapter 1 of this title, the
2 board shall have the power to:

3 (1) Request from the various departments, agencies, and authorities of this state and its
4 political subdivisions and their agencies and authorities such available information as it
5 may require in its work; and all such departments, agencies, and authorities shall furnish
6 such requested available information to the board and its divisions within a reasonable
7 time;

8 (2) Provide by regulation for reciprocity with other states or territories of the United
9 States in the licensing of home inspectors, provided that such other states have
10 requirements at least substantially equal to the requirements in force in this state for
11 registration, licensure, or certification, and that any such home inspector holding a current
12 and valid license, certificate, or registration from another state or territory seeking
13 licensure by way of reciprocity shall demonstrate that such applicant meets, in the
14 discretion of the board, the qualifications, requirements, and criteria set forth in this
15 chapter;

16 (3) Establish and adjust fees as necessary in accordance with Chapter 1 of this title;

17 (4) Adopt official seals for its use and change them at its pleasure;

18 (5) Establish any policies and procedures for regulating the businesses of home
19 inspection beyond those contained in the code of ethics and standards of practice for
20 home inspectors which are required by subsection (c) of this Code section; and

21 (6) Promulgate and adopt rules and regulations necessary to carry out this chapter.

22 (c) The board shall promulgate standards of practice and a code of ethics for the practice
23 of home inspectors.

24 43-39B-5.

25 (a) Anyone seeking to be licensed as a home inspector in this state shall file an application
26 on a form provided by the board accompanied by an application fee as provided by the
27 board.

28 (b) A person shall be eligible for licensure as a home inspector if he or she:

29 (1) Is at least 18 years of age;

30 (2) Is of good moral character;

31 (3) Has not been convicted of a crime that has a direct bearing on the person's ability to
32 perform competently and fully as a licensee;

33 (4) Has successfully completed high school or its equivalent;

34 (5) Has:

35 (A) Completed a board approved course of study of no less than 80 hours that covers
36 all of the following components of a residential building of four units or less: heating

1 system, cooling system, plumbing system, electrical system, structural components,
 2 foundation, roof covering, exterior and interior components, and site aspects as they
 3 affect the building; or

4 (B)(i) Presented documentation as required by the board that he or she has been
 5 engaged in the practice of home inspection for compensation for not fewer than three
 6 years prior to the effective date of this chapter; and

7 (ii) Performed not fewer than 100 home inspections for compensation; and

8 (6) Has passed a valid, reliable examination designed to test competence in home
 9 inspection practice and developed pursuant to accepted psychometric standards
 10 promulgated by the American Educational Research Association or similar organization
 11 acceptable to the board. The board shall designate such examination no later than
 12 December 31, 2008.

13 (c) Any otherwise qualified applicant failing the examination required by this chapter may
 14 be reexamined at any regularly scheduled examination within one year of the date of
 15 original application upon payment of a reexamination fee in an amount to be set by the
 16 board, without need to resubmit an application, unless any information set forth in the
 17 previously submitted application is no longer accurate or complete. Anyone requesting to
 18 take the examination a third or subsequent time shall wait at least one calendar year after
 19 the taking of the last examination and shall submit an application with the appropriate
 20 examination fees.

21 43-39B-6.

22 Notwithstanding any other provision of this chapter to the contrary, any person who holds
 23 a current and valid home inspector license, certification, or registration issued by another
 24 state or territory of the United States, where either such state or territory has entered into
 25 a reciprocal agreement with the board for the recognition of home inspector licenses issued
 26 in that state or territory or such application is pursuant to and in accordance with the
 27 regulations and requirements for reciprocity promulgated by the board, shall be eligible for
 28 licensure as a home inspector without examination under the provisions of this chapter,
 29 provided that such person submits a proper application and proofs, pays or has paid the
 30 required fees, otherwise meets the requirements of this chapter, is not otherwise in violation
 31 of this chapter, and such person and such application meet the following requirements:

32 (1) The criteria for issuance of such license, certification, or registration by such other
 33 state or territory, including the requirement to successfully complete an examination,
 34 were at least substantially equivalent to Georgia's current license criteria;

35 (2) The application requirements and application form submitted to the other state or
 36 territory upon which such license was issued and the examination form and substance

1 shall be available for review by the board and the examination results shall be made
2 available to the board; and

3 (3) The standards of practice of such state or territory are at least substantially similar to
4 those adopted by the board.

5 43-39B-7.

6 (a) Home inspector licenses shall be renewable biennially in accordance with procedures
7 established by the board.

8 (b) As a condition of license renewal, a licensed home inspector shall complete at least 30
9 hours of board approved continuing education during each renewal period.

10 43-39B-8.

11 (a) On and after July 1, 2009, no person shall provide nor present, call, or represent
12 himself or herself as able to provide a home inspection for compensation unless he or she
13 is licensed in accordance with the provisions of this chapter.

14 (b) Any person who, directly or indirectly, with the intention or upon the promise of
15 receiving any valuable consideration, offers, attempts, or agrees to perform or performs any
16 single act of home inspection shall be deemed a home inspector within the meaning of this
17 chapter. The commission of a single such act by a person who is required to have a home
18 inspector license under this chapter but who has not obtained such license shall constitute
19 a violation of this chapter.

20 43-39B-9.

21 (a) On and after July 1, 2009, no business organization shall provide home inspection
22 services unless each of the home inspectors employed by the business organization is
23 licensed in accordance with the provisions of this chapter; provided, however, that an
24 unlicensed person may accompany a home inspector licensed in accordance with this
25 chapter for training purposes.

26 (b) On and after July 1, 2009, no business organization may use in connection with the
27 name or signature of the business organization the title 'home inspector' to describe the
28 business organization's services unless each of the home inspectors employed by the
29 business organization is licensed; provided, however, that an unlicensed person may be
30 employed by the business organization and accompany a home inspector licensed in
31 accordance with the provisions of this chapter for training purposes.

32 (c) No license as a home inspector shall be issued to a business; provided, however, that
33 nothing in this Code section shall preclude a licensed home inspector from performing

1 home inspection services on behalf of a business so long as such services are performed
2 in compliance with the requirements of this chapter.

3 43-39B-10.

4 On and after July 1, 2009, it shall be unlawful for any person:

5 (1) Directly or indirectly, to engage in or conduct the business of, advertise or hold
6 himself or herself out as engaging in or conducting the business of, or act in the capacity
7 of a home inspector within this state without first obtaining a license as required by this
8 chapter;

9 (2) To perform or offer to perform for an additional fee any repairs to a structure on
10 which the home inspector or the home inspector's company has prepared a home
11 inspection report; provided, however, that a home protection company that is affiliated
12 with or retains a home inspector shall not be in violation of this paragraph if it performs
13 repairs pursuant to a claim made under a home protection contract;

14 (3) To inspect for a fee any property in which the home inspector or the home inspector's
15 company has any financial interest or any interest in the transfer of the property;

16 (4) To offer or deliver any compensation, inducement, or reward to the owner of the
17 inspected property, the broker, or the agent for the referral of any business to the home
18 inspector or the home inspection company;

19 (5) To accept an engagement to make a home inspection or to prepare a home inspection
20 report in which the home inspection itself or the fee payable for the home inspection is
21 contingent upon the conclusions in the home inspection report, preestablished findings,
22 or the close of escrow; and

23 (6) In the course of performing a home inspection or preparing and presenting a home
24 inspection report, to cite a violation of the state minimum standard codes, as enumerated
25 in paragraph (9) of Code Section 8-2-20, if such person does not hold a certification from
26 the appropriate accrediting organization for the code in which the violation is cited.

27 43-39B-11.

28 Nothing in this chapter shall prohibit:

29 (1) A person who is employed by a governmental entity from inspecting residential
30 buildings if the inspection is within that person's official duties and responsibilities;

31 (2) A person from performing a home inspection if the home inspection will be used
32 solely by a bank, savings and loan association, or credit union to monitor progress on the
33 construction of a residential building;

34 (3) A person who is employed as a property manager for a residential building and
35 whose official duties and responsibilities include inspecting the residential building from

1 performing an inspection on the structure if the person does not receive separate
2 compensation for the inspection work;

3 (4) A person who is regulated in another profession from acting within the scope of that
4 person's license, registration, or certification;

5 (5) A home inspector from performing a home inspection or preparing a home inspection
6 report for a single living unit within a residential structure with a height of two or more
7 stories, so long as the inspection is confined to the components, systems, and condition
8 of that single living unit; or

9 (6) A person who is not a licensed home inspector, but who is in training to become a
10 home inspector, from performing tasks under the direct, on-site supervision of a licensed
11 home inspector in accordance with the requirements established by the board.

12 43-39B-12.

13 (a) A home inspector shall perform a visual inspection of the readily accessible installed
14 systems and components of residential buildings or residential units and provide a home
15 inspection report within a reasonable time period.

16 (b) A home inspection report shall cite:

17 (1) Those systems and components inspected which, in the professional opinion of the
18 home inspector, are significantly deficient or are near the end of their service lives;

19 (2) A reason why, if not self-evident, the system or component is significantly deficient
20 or near the end of its service life;

21 (3) The home inspector's recommendations, if any, on how to correct or monitor the
22 reported deficiency; and

23 (4) Any systems and components listed in paragraph (5) of Code Section 43-39B-2
24 which were present at the time of the home inspection but were not inspected and a
25 reason they were not inspected.

26 (c) A home inspector may:

27 (1) Include other inspection services, systems, or components in addition to those
28 required;

29 (2) Specify repairs, provided the home inspector is appropriately qualified and willing
30 to do so; and

31 (3) Exclude systems and components from the home inspection if requested in writing
32 by the client.

33 (d) A home inspection shall not be required to:

34 (1) Be technically exhaustive; or

35 (2) Identify concealed conditions or latent defects.

1 43-39B-13.

2 A home inspector shall not be not required to:

3 (1) Offer warranties or guarantees of any kind;

4 (2) Perform any action or make any determination unless specifically stated in any
5 standards of practice adopted by the board or except as may be required by lawful
6 authority; or

7 (3) Perform any procedure or operation that shall, in the opinion of the inspector, likely
8 be dangerous to the home inspector or other persons or damage the property or its
9 systems or components.

10 43-39B-14.

11 The board shall require a home inspector to maintain liability insurance in an amount
12 established by the board.

13 43-39B-15.

14 It shall be unlawful for a home inspector to engage in the practice of architecture under
15 Chapter 4 of this title, engineering under Chapter 15 of this title, or residential or general
16 contracting under Chapter 41 of this title unless the home inspector is also licensed under
17 Chapter 4, Chapter 15, or Chapter 41 of this title, as applicable.

18 43-39B-16.

19 Any person who violates the provisions of this chapter shall be guilty of a misdemeanor."

20 **SECTION 2.**

21 Article 6 of Chapter 3 of Title 8 of the Official Code of Georgia Annotated, relating to
22 documentation by home inspectors, is repealed in its entirety.

23 **SECTION 3.**

24 This Act shall become effective upon its approval by the Governor or upon its becoming law
25 without such approval.

26 **SECTION 4.**

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