

House Bill 93

By: Representatives Taylor of the 79th, Jacobs of the 80th, Parent of the 81st, Huckaby of the 113th, Lindsey of the 54th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 74 of Title 36 of the Official Code of Georgia Annotated,
2 relating to local government code enforcement boards created on or after January 1, 2003,
3 so as to change a definition for purposes of said article; to change certain references to "code
4 inspectors" to "code enforcement officers" in said article; to amend Code Section 41-2-7 of
5 the Official Code of Georgia Annotated, relating to power of counties and municipalities to
6 repair, close, or demolish unfit buildings or structures, health hazards on private property,
7 and properties affected, so as to provide for findings by code enforcement officers; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Article 2 of Chapter 74 of Title 36 of the Official Code of Georgia Annotated, relating to
12 local government code enforcement boards created on or after January 1, 2003, is amended
13 by revising paragraph (1) of Code Section 36-74-21, relating to definitions relative to said
14 article, as follows:

15 ~~"(1) 'Code inspector' means any authorized agent or employee of the county or~~
16 ~~municipality whose duty it is to assure code compliance~~ enforcement officer' means any
17 person employed by a county or municipality who has enforcement authority for health,
18 safety, or welfare requirements and is authorized to issue citations or file formal
19 complaints regarding the same."

20 SECTION 2.

21 Said article is further amended by revising Code Section 36-74-23, relating to initiating
22 proceedings, time to correct violations, repeat violations, and hearings, as follows:

23

24 "36-74-23.

25 (a) It shall be the duty of the code ~~inspector~~ enforcement officer to initiate enforcement
 26 proceedings pursuant to the various codes; however, no member of a board shall have the
 27 power to initiate such enforcement proceedings.

28 (b) Except as provided in subsections (c) and (d) of this Code section, if a violation of any
 29 code or ordinance is found, the code ~~inspector~~ enforcement officer shall notify the violator
 30 and give him or her a reasonable time to correct the violation. Should the violation continue
 31 beyond the time specified for correction, the code ~~inspector~~ enforcement officer shall
 32 proceed with enforcement through the appropriate court or shall proceed with enforcement
 33 through the appropriate code enforcement board. If the code ~~inspector~~ enforcement officer
 34 proceeds through a code enforcement board, the code ~~inspector~~ enforcement officer shall
 35 notify an enforcement board and request a hearing. The code enforcement board shall
 36 schedule a hearing, and written notice of such hearing shall be hand delivered or made as
 37 provided in Code Section 36-74-29 to said violator. At the option of the code enforcement
 38 board, notice may additionally be served by publication or posting as provided in Code
 39 Section 36-74-29. If the violation is corrected and then recurs or if the violation is not
 40 corrected by the time specified for correction by the code ~~inspector~~ enforcement officer,
 41 the case may be presented to the enforcement board even if the violation has been corrected
 42 prior to the board hearing, and the notice shall so state.

43 (c) If a repeat violation is found, the code ~~inspector~~ enforcement officer shall notify the
 44 violator but is not required to give the violator a reasonable time to correct the violation.
 45 The code ~~inspector~~ enforcement officer, upon notifying the violator of a repeat violation,
 46 shall notify an enforcement board and request a hearing. The code enforcement board shall
 47 schedule a hearing and shall provide written notice pursuant to Code Section 36-74-29.
 48 The case may be presented to the enforcement board even if the repeat violation has been
 49 corrected prior to the board hearing, and the notice shall so state.

50 (d) If the code ~~inspector~~ enforcement officer has substantial reason to believe a violation
 51 presents a serious threat to the public health, safety, and welfare or if the violation is
 52 irreparable or irreversible in nature, the code ~~inspector~~ enforcement officer shall make a
 53 reasonable effort to notify the violator and may immediately notify the enforcement board
 54 and request a hearing."

55

SECTION 3.

56 Said article is further amended by revising subsections (a) through (c) of Code Section
 57 36-74-24, relating to calling of hearings and hearing proceedings, as follows:

58 "(a) Upon request of the code ~~inspector~~ enforcement officer, or at such other times as may
 59 be necessary, the chairperson of an enforcement board may call a hearing of an
 60 enforcement board; a hearing also may be called by written notice signed by at least three
 61 members of a seven-member enforcement board or signed by at least two members of a
 62 five-member enforcement board. Minutes shall be kept of all hearings by each
 63 enforcement board, and all hearings and proceedings shall be open to the public. The local
 64 governing body may provide or assign clerical and administrative personnel to assist the
 65 enforcement board in the proper performance of its duties.

66 (b) Each case before an enforcement board shall be presented by the local governing body
 67 attorney or by a code ~~inspector~~ enforcement officer or other member of the administrative
 68 staff of the local governing body.

69 (c) An enforcement board shall proceed to hear the cases on the agenda for that day. All
 70 testimony shall be under oath and shall be recorded. The enforcement board shall take
 71 testimony from the code ~~inspector~~ enforcement officer and alleged violator. Formal rules
 72 of evidence shall not apply, but fundamental due process shall be observed and shall
 73 govern the proceedings."

74 **SECTION 4.**

75 Said article is further amended by revising subsection (a) of Code Section 36-74-26, relating
 76 to administrative fines and public records, as follows:

77 "(a) An enforcement board, upon notification by the code ~~inspector~~ enforcement officer
 78 that an order of the enforcement board has not been complied with by the set time may
 79 order the violator to pay an administrative fine in an amount specified in this Code section."

80 **SECTION 5.**

81 Said article is further amended by revising subsection (a) of Code Section 36-74-29, relating
 82 to notice required and form of notice, as follows:

83 "(a) All notices required by this article shall be provided to the alleged violator by certified
 84 mail or statutory overnight delivery, return receipt requested; by hand delivery by the
 85 sheriff or other law enforcement officer, code ~~inspector~~ enforcement officer, or other
 86 person designated by the local governing body; or by leaving the notice at the violator's
 87 usual place of residence with any person residing therein who is above 15 years of age and
 88 informing such person of the contents of the notice."

89 **SECTION 6.**

90 Said article is further amended by revising subsection (a) of Code Section 36-74-30, relating
 91 to other enforcement methods and probable cause for investigation required, as follows:

92 "(a) It is the intent of this article to provide an additional or supplemental means of
93 obtaining compliance with local codes. Nothing contained in this article shall prohibit a
94 local governing body through its code ~~inspector~~ enforcement officer from enforcing its
95 codes by any other lawful means including criminal and civil proceedings; provided,
96 however, that a local governing body shall not pursue a specific instance of an alleged
97 violation of an ordinance against one violator before both a code enforcement board and
98 a magistrate, municipal, or other court authorized to hear ordinance violations."

99 **SECTION 7.**

100 Code Section 41-2-7 of the Official Code of Georgia Annotated, relating to power of
101 counties and municipalities to repair, close, or demolish unfit buildings or structures, health
102 hazards on private property, and properties affected, is amended by revising subsection (b)
103 as follows:

104 "(b) All the provisions of this Code section and Code Sections 41-2-8 through 41-2-17
105 including method and procedure may also be applied to private property where there exists
106 an endangerment to the public health or safety as a result of unsanitary or unsafe conditions
107 to those persons residing or working in the vicinity. A finding by any governmental health
108 department, health officer, ~~or building inspector,~~ or code enforcement officer that such
109 property is a health or safety hazard shall constitute prima-facie evidence that said property
110 is in violation of this Code section and Code Sections 41-2-8 through 41-2-17."

111 **SECTION 8.**

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