

The House Committee on Judiciary offers the following substitute to HB 93:

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 provide for related matters; to  
5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 SECTION 1.

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

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

17 SECTION 2.

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

20 "36-74-23.

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

24 (b) Except as provided in subsections (c) and (d) of this Code section, if a violation of any  
25 code or ordinance is found, the code ~~inspector~~ enforcement officer shall notify the violator

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

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

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

### 51 **SECTION 3.**

52 Said article is further amended by revising subsections (a) through (c) of Code Section  
 53 36-74-24, relating to calling of hearings and hearing proceedings, as follows:

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

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

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

70 **SECTION 4.**

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

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

76 **SECTION 5.**

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

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

85 **SECTION 6.**

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

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

95

**SECTION 7.**

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