

Senate Bill 388

By: Senator Moore of the 53rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 13 of Title 36 of the Official Code of Georgia Annotated, relating to
2 building, electrical, and other codes, so as to provide that no person may be incarcerated for
3 certain code violations; to revise the number of days that constitute a separate offense; to
4 amend Chapter 74 of Title 36 of the Official Code of Georgia Annotated, relating to local
5 government code enforcement boards, so as to provide that certain emergency circumstances
6 must be present before a code violation may constitute grounds for a search warrant; to
7 provide for a reduction in a certain administrative fine; to provide for legislative findings; to
8 provide for a short title; to provide for related matters; to repeal conflicting laws; and for
9 other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 The General Assembly finds and declares that:

- 13 (1) Numerous property owners have been harmed by the actions of overzealous local code
14 enforcement officers;
- 15 (2) No homeowner should ever be incarcerated based on simple building, electrical, or
16 other local code violations;

17 (3) A person's home should be a place of refuge where a homeowner can enjoy a degree
18 of privacy and tranquility, without being subjected to government overreach;

19 (4) Except where imminent danger exists to a homeowner or his or her neighbors, code
20 enforcement officials should not be able to obtain search warrants for a person's home
21 based on building, electrical, or other local code violations; and

22 (5) Local code enforcement officers should not be able to count each and every day of a
23 violation as a separate offense, thereby running up excessive fines on sometimes
24 unsuspecting property owners.

25 **SECTION 2.**

26 This Act shall be known and may be cited as the "Property Owners Protection Act."

27 **SECTION 3.**

28 Chapter 13 of Title 36 of the Official Code of Georgia Annotated, relating to building,
29 electrical, and other codes, is amended by revising Code Section 36-13-12, relating to
30 criminal penalty for violations of codes, rules, or regulations, as follows:

31 "36-13-12.

32 The violation of any of the codes, rules, and regulations adopted by the county governing
33 authority under this chapter is declared to be a misdemeanor. Any person violating any
34 such codes, rules, and regulations shall be guilty of a misdemeanor. No person shall be
35 incarcerated, however, for the commission of such a misdemeanor. Each and every day
36 30 days that such violation continues shall be deemed a separate offense."

37 **SECTION 4.**

38 Chapter 74 of Title 36 of the Official Code of Georgia Annotated, relating to local
39 government code enforcement boards, is amended by revising subsection (b) of Code
40 Section 36-74-26, relating to administrative fines and public record, as follows:

41 "(b)(1) An administrative fine imposed pursuant to this Code section for a violation
42 involving the health or safety of a third party shall not exceed ~~\$1,000.00 per day~~
43 \$5,000.00.

44 (2) An administrative fine imposed pursuant to this Code section for a violation that is
45 not a violation involving the health or safety of a third party shall not exceed a total of
46 \$1,000.00.

47 (3) In determining the amount of the fine, if any, the enforcement board shall consider
48 the following factors:

49 (A) The gravity of the violation;

50 (B) Any actions taken by the violator to correct the violation; and

51 (C) Any previous violations committed by the violator.

52 (4) An enforcement board may reduce a fine imposed pursuant to this Code section."

53 **SECTION 5.**

54 Said chapter is further amended by revising Code Section 36-74-30, relating to other
55 enforcement methods and probable cause for investigation required, as follows:

56 "36-74-30.

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

64 (b) Notwithstanding any provision of law to the contrary, no local government is
65 authorized to perform investigations or inspections of residential or commercial property,
66 including residential rental property, unless there is probable cause to believe there is or

67 has been a violation or violations of applicable codes, and such violation or violations
68 create an imminent danger to the life or health of the owner, tenants of or visitors to such
69 property, or the neighbors within a one mile radius of such property. Conditions which
70 appear to be code violations which are in plain view may form the basis for probable cause.
71 ~~(b)(c) In No local government is authorized to perform investigations or inspections of~~
72 ~~residential rental property unless there is probable cause to believe there is or has been a~~
73 ~~violation or violations of applicable codes, and in no event may a local government require~~
74 ~~the registration of residential rental property. Conditions which appear to be code~~
75 ~~violations which are in plain view may form the basis for probable cause."~~

76

SECTION 6.

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