

The Senate Committee on Urban Affairs offered the following substitute to SB 166:

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia
2 Annotated, the "Fair Business Practices Act," so as to provide for a certain new violation; to
3 amend Chapter 1 of Title 36 of the Official Code of Georgia Annotated, relating to general
4 provisions applicable to counties only, so as to revise provisions relating to ordinances for
5 governing and policing unincorporated areas of counties; to amend Chapter 60 of Title 36
6 of the Official Code of Georgia Annotated, relating to provisions applicable to counties and
7 municipal corporations, so as to authorize enhanced monetary penalties for repeated
8 violations of certain county and municipal codes or ordinances; to provide for a definition;
9 to provide limitations on such penalties; to amend Chapter 74 of Title 36 of the Official Code
10 of Georgia Annotated, relating to local government code enforcement boards, so as to create
11 an exception to the prohibition against a local government requiring the registration of
12 certain residential rental property; to provide for related matters; to repeal conflicting laws;
13 and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15

SECTION 1.

16 Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, the
17 "Fair Business Practices Act," is amended in Code Section 10-1-393, relating to unfair or
18 deceptive practices in consumer transactions unlawful and examples, by striking "and" at the
19 end of paragraph (36), by replacing the period at the end of paragraph (37) with "; and", and
20 by adding a new paragraph to subsection (b) to read as follows:

21 "(38) Failure to comply with the provisions of Code Section 34-74-30 regarding the
22 attempted avoidance of registration of certain residential property."

23

SECTION 2.

24 Chapter 1 of Title 36 of the Official Code of Georgia Annotated, relating to general
25 provisions applicable to counties only, is amended by revising Code Section 36-1-20, relating
26 to ordinances for governing and policing of unincorporated areas of county, as follows:

27 "36-1-20.

28 (a) The governing authority of each county, for the purpose of protecting and preserving
29 the public health, safety, and welfare, is authorized to adopt ordinances for the governing
30 and policing of the unincorporated areas of the county, violations of which ordinances may
31 be punished by fine or ~~imprisonment~~ confinement or both. Without limiting the generality
32 of the foregoing, such ordinances may provide for traffic regulation, including adoption of
33 the uniform rules of the road under Chapter 6 of Title 40, may provide for the regulation
34 and control of litter in the same manner as municipal ordinances under Code
35 Section 16-7-48, and may provide for the implementation and enforcement of any power
36 or duty vested in the county governing authority.

37 (b) Each such ordinance shall specify the maximum punishment which may be imposed
38 for a violation of the ordinance; and except as provided for in Code Section 36-60-33, in
39 no case shall the maximum punishment for the violation of any such ordinance exceed a
40 fine of \$1,000.00 or ~~imprisonment~~ confinement for 60 days or both; provided, however,

41 that, for violation of a pretreatment standard or requirement adopted pursuant to the federal
42 Clean Water Act, the ordinance may specify that the fine may be up to \$1,000.00 per day
43 for each violation by an industrial user.

44 (c) Jurisdiction over violations of such county ordinances shall be in the magistrate court
45 of the county; and procedure for enforcement of such ordinances shall be as provided in
46 Article 4 of Chapter 10 of Title 15; provided, however, that jurisdiction over ordinances
47 having to do with traffic offenses shall be in the court or courts having jurisdiction over
48 state traffic offenses.

49 (d) This Code section shall not affect the jurisdiction of or procedure in any other court
50 which has jurisdiction over violations of county ordinances."

51

SECTION 3.

52 Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to provisions
53 applicable to counties and municipal corporations, is amended by adding a new Code section
54 to read as follows:

55 "36-60-33.

56 (a) As used in this Code section, the term 'county or municipal codes or ordinances' means
57 zoning ordinances and resolutions, ordinances and resolutions enacting subdivision
58 regulations, environmental ordinances and resolutions, state minimum standard codes
59 provided for in Code Section 8-2-25, ordinances and resolutions enacted pursuant to Code
60 Section 8-2-25, other ordinances and resolutions regulating the development of real
61 property, and ordinances and regulations providing for control of litter and debris, control
62 of junked or abandoned vehicles, and control of overgrown vegetation. Notwithstanding
63 the above, such term shall not include:

64 (1) Those codes and ordinances requiring a permit, unless the alleged violator has failed
65 to secure all necessary valid permits under said codes and ordinances; or

66 (2) Any local amendments to the state minimum standard codes provided for in Code
67 Section 8-2-25 not adopted in conformity with the requirements of subsection (c) of such
68 Code section.

69 (b) Notwithstanding the provision of any local law, including municipal charters, to the
70 contrary, each county and municipality is authorized to provide for enhanced monetary
71 penalties for repeat and subsequent violations of any county or municipal codes or
72 ordinances in cases pertaining to public health and safety. Enhanced monetary penalties
73 authorized by this Code section shall not exceed:

74 (1) An amount of \$3,000.00 for a second violation of a county or municipal code or
75 ordinance;

76 (2) An amount of \$5,000.00 for a third violation of a county or municipal code or
77 ordinance;

78 (3) An amount of \$10,000.00 for a fourth violation of a county or municipal code or
79 ordinance; and

80 (4) An amount of \$15,000.00 for a fifth or subsequent violation of a county or municipal
81 code or ordinance.

82 (c) The enhanced monetary penalties authorized by this Code section shall not apply to:

83 (1) Any property that is subject to a homestead exemption granted pursuant to
84 Article VII, Section II, Paragraph II of the Constitution; or

85 (2) Any person owning less than ten single-family or duplex residential properties within
86 the geographic boundaries of the same county, whether incorporated or unincorporated,
87 as the property that is the subject of the code or ordinance enforcement action, regardless
88 of whether or not such additional properties are located within the jurisdiction bringing
89 the enforcement act."

SECTION 4.

90

91 Chapter 74 of Title 36 of the Official Code of Georgia Annotated, relating to local
92 government code enforcement boards, is amended by revising subsection (b) and adding a
93 new subsection to Code Section 36-74-30, relating to other enforcement methods and
94 probable cause for investigation required, as follows:

95 "(b) No local government is authorized to perform investigations or inspections of
96 residential rental property unless there is probable cause to believe there is or has been a
97 violation or violations of applicable codes, and in no event may a local government require
98 the registration of residential rental property, unless the owner of such property owns ten
99 or more single-family or duplex residential properties within the geographic boundaries of
100 the same county, whether incorporated or unincorporated, as the jurisdiction requiring such
101 registration. Conditions which appear to be code violations which are in plain view may
102 form the basis for probable cause. If there is probable cause to believe that there is or has
103 been a violation or violations of applicable codes on such a property managed by a person
104 licensed pursuant to Chapter 40 of Title 43, upon request of a code enforcement officer, the
105 tenant of such property shall provide the name, license number, and contact information
106 for the property manger.

107 (c) Any residential property owner or representative of such owner who attempts to avoid
108 the required registration of some or all of his or her property through the use of multiple
109 limited liability company or corporate names shall have violated this Code section and such
110 violation shall be in violation of Code Section 10-1-393."

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SECTION 5.

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