

The House Committee on Regulated Industries offers the following substitute to SB 458:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapters 40 and 41 of Title 43 of the Official Code of Georgia Annotated, relating  
2 to real estate brokers and salespersons and residential and commercial general contractors,  
3 respectively, so as to require certain commissioners of the Georgia Real Estate Commission  
4 to be licensees in good standing; to prohibit certain real estate practices; to exempt certain  
5 operations; to provide for certain consent cease and desist orders; to provide for licensure of  
6 home inspectors; to provide for reciprocity of licensure; to provide for licensure of  
7 companies performing home inspections; to provide for minimum requirements to apply for  
8 licensure; to provide for requirements to maintain license; to require home inspectors to  
9 maintain or be covered by certain insurance; to provide for standards of practice and unfair  
10 trade practices; to provide for exceptions; to provide for definitions; to provide for a short  
11 title; to provide for a legislative purpose; to provide for related matters; to repeal conflicting  
12 laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 This Act shall be known and may be cited as the "Home Inspector Licensing Act of  
16 Georgia."

S. B. 458 (SUB)



40 **SECTION 5.**

41 Said chapter is further amended by revising paragraphs (12), (35), and (36) of and adding a  
 42 new paragraph to subsection (b) of Code Section 43-40-25, relating to violations by  
 43 licensees, schools, and instructors, sanctions, and unfair trade practices, to read as follows:

44 "(12) Offering real estate for sale or lease without the knowledge and consent of the  
 45 owner or the owner's authorized agent or on terms other than those authorized by the  
 46 owner or the owner's authorized agent, or offering real estate for sale or lease on behalf  
 47 of a wholesaler;"

48 "(35) Inducing any person to alter, modify, or change another licensee's fee or  
 49 commission for real estate brokerage services without that licensee's prior written  
 50 consent; ~~or~~

51 (36) Failing to obtain a person's written agreement to refer that person to another  
 52 licensed broker for brokerage or relocation services and to inform such person being  
 53 referred whether or not the licensee will receive a valuable consideration for such  
 54 referral; or

55 (37) Indicating to a client or to another broker in direct communication, in a multiple  
 56 listing service, any promotional material, or in any marketing of real property that an  
 57 offer to buy or sell real estate will not be presented to the purchaser and to the seller  
 58 based on a compensation request in that offer, or will be marketed in a manner that places  
 59 the interest of the broker over that of the client."

60 **SECTION 6.**

61 Said chapter is further amended by revising paragraphs (1), (13), and (14) of and adding a  
 62 new paragraph to Code Section 43-40-29, relating to exceptions to operation of chapter, to  
 63 read as follows:

64 "(1) Any person who, as owner, as the spouse of an owner, as the family member of an  
 65 owner, as that term is defined in rules promulgated by the Commission, as general partner

66 of a limited partnership as an officer of a limited liability company, or as lessor, ~~or as~~  
 67 ~~prospective purchaser or their regular employees~~, performs any act with reference to  
 68 property owned, leased, or to be acquired by such owner, limited partnership, lessor, or  
 69 prospective purchaser where such acts are performed in the regular course of, or as  
 70 incident to, the management of such property and the investment therein or any person  
 71 who manages residential apartment complexes under a contract approved by any federal  
 72 agency for an organization which is exempt from federal taxes pursuant to  
 73 Section 501(c)(3) of the Internal Revenue Code, as defined in Code Section 48-1-2,  
 74 provided that such person was engaged in managing such property under such type  
 75 contract prior to January 1, 1989;"

76 "(13) Any person who performs only physical maintenance on a property; ~~or~~

77 (14) A licensed certified public accountant acting solely as an incident to the practice of  
 78 public accounting; or

79 (15) Any prospective purchaser or their regular employee who performs any act with  
 80 reference to property to be acquired by such prospective purchaser and who:

81 (A) Is not a wholesaler; or

82 (B) Does not receive a separate fee for the performance of such act."

### 83 SECTION 7.

84 Said chapter is further amended by revising subsection (c) of Code Section 43-40-30, relating  
 85 to acting without a license, cease and desist order, judicial review, and effect of Code section  
 86 on other remedies, as follows:

87 "(c) Notwithstanding any other provisions of law to the contrary, ~~the~~:

88 (1) The commissioner may issue a consent cease and desist order to any person for  
 89 whom the commission has opened an investigation for engaging in the practice of a real  
 90 estate broker without a license. Such consent cease and desist order shall be final upon  
 91 consummation of the order; and

92 (2) The commission may issue a cease and desist order prohibiting any person from  
93 violating the provisions of this chapter by engaging in the practice of a real estate broker  
94 without a license. Such cease and desist order shall be final ten days after it is issued  
95 unless the person to whom such order is issued requests a hearing before the  
96 commission."

97 **SECTION 8.**

98 Chapter 41 of Title 43 of the Official Code of Georgia Annotated, relating to residential and  
99 commercial general contractors, is amended by designating Code Sections 43-41-1 through  
100 43-41-18 as Article 1.

101 **SECTION 9.**

102 Said chapter is further amended by adding a new article to read as follows:

103 "ARTICLE 2

104 43-41-20.

105 As used in this article, the term:

106 (1) 'Ancillary services' means specialized inspections that a home inspector may offer  
107 but are not considered part of a general home inspection unless specifically advertised or  
108 performed outside the scope of the standards of practice.

109 (2) 'Client' means the party for whom the home inspection is performed, including, but  
110 not limited to, a prospective purchaser or seller of a home.

111 (3) 'Home inspection' means a limited, noninvasive examination of the condition of a  
112 home by a home inspector.

113 (4) 'Home inspector' means any person, except an employee of a county, municipality,  
114 or political subdivision while engaged in the performance of the duties of his or her

115 employment, who, for consideration, inspects and reports on the condition of any home  
116 or single-family dwelling or the grounds, roof, exterior surface, garage or carport,  
117 structure, attic, basement or crawl space, electrical system, heating system,  
118 air-conditioning system, plumbing, on-site sewerage disposal, pool or hot tub, fireplace,  
119 kitchen, appliances, or any combination thereof for a prospective purchaser or seller.

120 (5) 'Standards of practice' means the minimum standards for home inspections  
121 established by the board.

122 (6) 'Unfair trade practices' means practices that violate the code of conduct that governs  
123 home inspectors as established by the board.

124 43-41-21.

125 (a) Home inspectors shall be licensed by the board beginning January 1, 2028.

126 (b) The residential contractor division shall have jurisdiction and authority over home  
127 inspectors.

128 (c) The board shall provide by regulation for reciprocity with other states or territories of  
129 the United States in the licensing of home inspectors, provided that such other states have  
130 requirements substantially equal to the requirements in force in this state for registration,  
131 licensure, or certification, and that any such home inspector holding a current and valid  
132 license, certificate, or registration from another state or territory seeking licensure by way  
133 of reciprocity shall demonstrate that such applicant meets the qualifications, requirements,  
134 and criteria set forth in this article and that such applicant is otherwise in compliance with  
135 all requirements of this state for the transaction of such business; provided, further, that a  
136 similar privilege is offered to residents of this state by such other state or territory.

137 43-41-22.

138 (a) An applicant for a home inspector license shall:

139 (1) Be at least 18 years of age;

- 140 (2) Possess a high school diploma, or its equivalent, or ten years of experience in the  
141 home inspection or residential contractor industry;  
142 (3) Pass a criminal background check; and  
143 (4) Submit a complete application with all required documentation and fees.  
144 (b) Applicants shall pass a psychometrically sound examination administered or approved  
145 by the board.  
146 (c) Such licenses shall be renewable every four years by birth month of the licensee.

147 43-41-23.

148 Applicants and home inspectors shall maintain or be covered by:

- 149 (1) A minimum of \$250,000.00 per occurrence and \$500,000.00 aggregate general  
150 liability insurance for third-party claims for bodily injury or property damage; and  
151 (2) A minimum of \$250,000.00 per occurrence and \$500,000.00 aggregate errors and  
152 omissions insurance for claims of professional mistakes, oversights, or negligence. Such  
153 errors and omissions insurance shall include coverage for liability arising from referrals.

154 43-41-24.

155 To maintain licensure, home inspectors shall maintain competency in the current standards  
156 of practice and residential building codes.

157 43-41-25.

- 158 (a) Companies that perform home inspections shall be licensed by the board beginning  
159 January 1, 2028.  
160 (b) To be licensed by the board, companies that perform home inspections shall:  
161 (1) Register with the board;  
162 (2) Provide the board a list of all licensed home inspectors employed or contracted by  
163 the company;

- 164 (3) Ensure all home inspections are performed by individuals holding active licenses;  
165 (4) Maintain records of all inspections performed, including, but not limited to, home  
166 inspection reports and client information; and  
167 (5) Be subject to audit and disciplinary action by the board.

168 43-41-26.

169 (a) The board shall adopt and periodically update comprehensive standards of practice and  
170 unfair trade practices that all licensed home inspectors shall comply with. Such standards  
171 shall define the scope of a home inspection, include what is and is not required to be  
172 inspected, and establish a baseline for the protection of public interest.

173 (b) Licensed home inspectors shall provide clients with a written disclosure of the current  
174 standards of practice and unfair trade practices, a written disclosure of any ancillary  
175 services to be performed, and a sample home inspection report prior to commencing an  
176 inspection.

177 43-41-27.

178 (a) The board shall open an investigation when there is:

179 (1) A sworn written complaint from a client who hired a home inspector or company that  
180 performs home inspections;

181 (2) A referral from another licensing entity; or

182 (3) Probable cause established in the course of another investigation, or that is available  
183 in the public domain, that the home inspector or company that performs home inspections  
184 violated the standards of practice or engaged in unfair trade practices.

185 (b) If an investigation finds a violation of this article, the board may:

186 (1) Issue cease and desist orders to home inspectors or companies performing home  
187 inspections;

188 (2) Impose fines;

189 (3) Suspend or revoke licenses;  
190 (4) Require additional education or training;  
191 (5) File a criminal complaint with the Attorney General; or  
192 (6) Any combination thereof.  
193 (c) Before imposing penalties for violations of this article, such violations shall be heard  
194 and determined by the residential contractor division in accordance with the provisions of  
195 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

196 43-41-28.

197 The board shall establish reasonable fees for applications, examinations, licenses, license  
198 renewals, and other administrative services. All such fees collected shall be used to fund  
199 the operations and enforcement activities of the board.

200 43-41-29.

201 This article shall not apply to:

202 (1) A real estate appraiser licensed pursuant to Chapter 39A of this title;  
203 (2) A real estate broker or salesperson licensed pursuant to Chapter 40 of this title;  
204 (3) A residential contractor licensed pursuant to Article 1 of this chapter; or  
205 (4) Any officer or employee of a government agency conducting official duties.

206 43-41-30.

207 Beginning July 1, 2027, any person working as a home inspector on or before such date  
208 may apply to the board for licensure without meeting the initial education requirements if  
209 they pass the National Home Inspector Examination or meet an equivalent  
210 psychometrically sound competency measure as approved by the board."

211

**SECTION 10.**

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