

SENATE SUBSTITUTE TO HB 1385

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Part 2 of Article 1 of Chapter 2 of Title 8 of the Official Code of Georgia
 2 Annotated, relating to state building, plumbing, and electrical codes, so as to provide for the
 3 employment of private professional providers to perform building plan reviews and
 4 inspections when the local jurisdiction cannot timely perform such services; to provide a
 5 definition; to provide for the qualifications of such persons; to provide for the manner of such
 6 reviews and inspections; to provide for certain insurance requirements; to provide for the
 7 manner of submitting reports; to provide for the issuance of notices of deficiencies to the
 8 applicants and time for curing such deficiencies; to provide for the issuance of permits under
 9 certain conditions; to provide for appeals; to provide for applicability; to provide for certain
 10 immunities; to prohibit adoption of more stringent standards by local jurisdictions; to provide
 11 for exceptions; to amend Chapter 2 of Title 25 of the Official Code of Georgia Annotated,
 12 relating to regulation of fire and other hazards to persons and property generally, so as to
 13 provide for the employment of private professional providers to perform building plan
 14 reviews when the state fire marshal, local fire marshal, state inspector, or designated code
 15 official cannot timely perform such services; to provide a definition; to provide for the
 16 qualifications of such persons; to provide for the manner of such reviews and inspections;
 17 to provide for certain insurance requirements; to provide for the manner of submitting
 18 reports; to provide for the issuance of notices of deficiencies to the applicants and time for
 19 curing such deficiencies; to provide for the issuance of permits under certain conditions; to
 20 provide for appeals; to provide for applicability; to provide for certain immunities; to prohibit
 21 adoption of more stringent standards by local jurisdictions; to provide for other related
 22 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

24 Part 2 of Article 1 of Chapter 2 of Title 8 of the Official Code of Georgia Annotated, relating
 25 to state building, plumbing, and electrical codes, is amended by striking subsection (g) of
 26

1 Code Section 8-2-26, relating to enforcement of codes generally, and inserting in lieu thereof
2 a new subsection (g) to read as follows:

3 “(g)(1) If a governing authority of a county or municipality cannot provide review of the
4 documents intended to demonstrate that the structure to be built is in compliance with the
5 Georgia State Minimum Standard Codes most recently adopted by the Department of
6 Community Affairs and any locally adopted ordinances and amendments to such codes
7 within 30 business days of receiving a written application for permitting in accordance
8 with the code official’s plan submittal process or inspection by inspectors or other
9 personnel employed by such governing authority, any person, firm, or corporation
10 engaged in a construction project which requires plan review or inspection shall have the
11 option of retaining, at its own expense, a private professional provider to provide the
12 required plan review or inspection. As used in this subsection, the term 'private
13 professional provider' means a professional engineer who holds a certificate of
14 registration issued under Chapter 15 of Title 43 or a professional architect who holds a
15 certificate of registration issued under Chapter 4 of Title 43, and who is not an employee
16 of or otherwise affiliated with or financially interested in such the person, firm, or
17 corporation, to provide the required inspection engaged in the construction project to be
18 reviewed or inspected. The local governing authority shall advise the permit applicant
19 in writing if requested by the applicant at the time the complete submittal application for
20 a permit in accordance with the code official’s plan submittal process is received that the
21 local governing authority intends to complete the required plan review within the time
22 prescribed by this paragraph or that the applicant may immediately secure the services
23 of a private professional provider to complete the required plan review pursuant to this
24 subsection. The plan submittal process shall include those procedures and approvals
25 required by the local jurisdiction before plan review can take place. If the local
26 governing authority states its intent to complete the required plan review within the time
27 prescribed by this paragraph, the applicant shall not be authorized to use the services of
28 a private professional provider as provided in this subsection. The permit applicant and
29 the local governing authority may agree by mutual consent to extend the time period
30 prescribed by this paragraph for plan review if the characteristics of the project warrant
31 such an extension. However, if the local governing authority states its intent to complete
32 the required plan review within the time prescribed by this paragraph, or any extension
33 thereof mutually agreed to by the applicant and the governing authority, and does not
34 permit the applicant to use the services of a private professional provider and the local
35 governing authority fails to complete such plan review in the time prescribed by this
36 paragraph, or any extension thereof mutually agreed to by the applicant and the governing
37 authority, the local governing authority shall issue the applicant a project initiation permit

1 The local governing authority shall be allowed to limit the scope of a project initiation
2 permit and limit the areas of the site to which the project initiation permit may apply but
3 shall permit the applicant to begin work on the project, provided that portion of the initial
4 phase of work is compliant with applicable codes, laws, and rules. If a full permit is not
5 issued for the portion requested for permitting, then the governing authority shall have
6 an additional 20 business days to complete the review and issue the full permit. If the
7 plans submitted for permitting are denied for any deficiency, the time frames and process
8 for resubmittal shall be governed by subparagraphs (C) through (E) of paragraph (7) of
9 this subsection. On or before July 1, 2007, the Board of Natural Resources shall adopt
10 rules and regulations governing the review of erosion and sedimentation control plans
11 under Part 9 of Chapter 7 of Title 12 to establish appropriate time frames for the
12 submission and review of revised plan submittals where a deficiency or deficiencies in
13 the submitted plans have been identified by the governing authority.

14 (2) Any plan review or inspection conducted by a registered private professional
15 engineer provider shall be no less extensive than an inspection plan reviews or
16 inspections conducted by a county or municipal inspector personnel.

17 (3) The person, firm, or corporation retaining a registered private professional engineer
18 provider to conduct a plan review or an inspection shall be required to pay to the county
19 or municipality which requires the plan review or inspection the same permit regulatory
20 fees and charges which would have been required had the plan review or inspection been
21 conducted by a county or municipal inspector.

22 (4) A private professional provider performing plan reviews under this subsection shall
23 review construction plans to determine compliance with the Georgia State Minimum
24 Standard Codes most recently adopted by the Department of Community Affairs and any
25 locally adopted ordinances and amendments to such codes. Upon determining that the
26 plans reviewed comply with the applicable codes, such private professional provider shall
27 prepare an affidavit or affidavits on a form adopted by the Department of Community
28 Affairs certifying under oath that the following is true and correct to the best of such
29 private professional provider's knowledge and belief and in accordance with the
30 applicable professional standard of care:

31 (A) The plans were reviewed by the affiant who is duly authorized to perform plan
32 review pursuant to this subsection and who holds the appropriate license or
33 certifications and insurance coverage stipulated in this subsection;

34 (B) The plans comply with the Georgia State Minimum Standard Codes most recently
35 adopted by the Department of Community Affairs and any locally adopted ordinances
36 and amendments to such codes; and

1 (C) The plans submitted for plan review are in conformity with plans previously
 2 submitted to obtain governmental approvals required in the plan submittal process and
 3 do not make a change to the project reviewed for such approvals.

4 (5) All private professional providers providing plan review or inspection services
 5 pursuant to this subsection shall secure and maintain insurance coverage for professional
 6 liability (errors and omissions) insurance. The limits of such insurance shall be not less
 7 than \$1 million per claim and \$1 million in aggregate coverage. Such insurance may be
 8 a practice policy or project-specific coverage. If the insurance is a practice policy, it shall
 9 contain prior acts coverage for the private professional provider. If the insurance is
 10 project-specific, it shall continue in effect for two years following the issuance of the
 11 certificate of final completion for the project. A local enforcement agency, local building
 12 official, or local government may establish, for private professional providers working
 13 within that jurisdiction, a system of registration listing the private professional providers
 14 within their areas of competency and verifying compliance with the insurance requirements
 15 of this subsection.

16 ~~(4)~~(6) ~~The registered private professional engineer provider~~ shall be empowered to perform
 17 any plan review or inspection required by the governing authority of any county or
 18 municipality, including, but not limited to, inspections for footings, foundations, concrete
 19 slabs, framing, electrical, plumbing, heating ventilation and air conditioning (HVAC), or any
 20 and all other inspections necessary or required for the issuance of a building permit or
 21 certificate of occupancy by the governing authority of any county or municipality, provided
 22 that the plan review or inspection is within the scope of such ~~engineer's branch of~~
 23 ~~engineering expertise~~ private professional provider's area of competency. Nothing in this
 24 Code section shall authorize any private professional provider to issue a certificate of
 25 occupancy. Only a local governing authority shall be authorized to issue a certificate of
 26 occupancy.

27 ~~(5)~~(7)(A) ~~The registered permit applicant shall submit a copy of the private professional~~
 28 ~~engineer shall submit a copy of his or her inspection provider's plan review~~ report to the
 29 county or municipality. Such plan review report shall include at a minimum all of the
 30 following:

31 (i) The affidavit of the private professional provider required pursuant to this
 32 subsection;

33 (ii) The applicable fees; and

34 (iii) Any documents required by the local official and any other documents necessary
 35 to determine that the permit applicant has secured all other governmental approvals
 36 required by law.

1 (B) No more than 30 business days after receipt of a permit application and the
2 affidavit from the private professional provider required pursuant to this subsection, the
3 local building official shall issue the requested permit or provide written notice to the
4 permit applicant identifying the specific plan features that do not comply with the
5 applicable codes, as well as the specific code chapters and sections. If the local
6 building official does not provide a written notice of the plan deficiencies within the
7 prescribed 30 day period, the permit application shall be deemed approved as a matter
8 of law and the permit shall be issued by the local building official on the next business
9 day.

10 (C) If the local building official provides a written notice of plan deficiencies to the
11 permit applicant within the prescribed 30 day period, the 30 day period shall be tolled
12 pending resolution of the matter. To resolve the plan deficiencies, the permit applicant
13 may elect to dispute the deficiencies pursuant to this subsection or to submit revisions
14 to correct the deficiencies.

15 (D) If the permit applicant submits revisions to address the plan deficiencies previously
16 identified, the local building official shall have the remainder of the tolled 30 day
17 period plus an additional five business days to issue the requested permit or to provide
18 a second written notice to the permit applicant stating which of the previously identified
19 plan features remain in noncompliance with the applicable codes, with specific
20 reference to the relevant code chapters and sections. If the local building official does
21 not provide the second written notice within the prescribed time period, the permit shall
22 be issued by the local building official on the next business day. In the event that the
23 revisions required to address the plan deficiencies or any additional revisions submitted
24 by the applicant require that new governmental approvals be obtained, the applicant
25 shall be required to obtain such approvals before a new plan report can be submitted.

26 (E) If the local building official provides a second written notice of plan deficiencies
27 to the permit applicant within the prescribed time period, the permit applicant may elect
28 to dispute the deficiencies pursuant to this subsection or to submit additional revisions
29 to correct the deficiencies. For all revisions submitted after the first revision, the local
30 building official shall have an additional five business days to issue the requested
31 permit or to provide a written notice to the permit applicant stating which of the
32 previously identified plan features remain in noncompliance with the applicable codes,
33 with specific reference to the relevant code chapters and sections.

34 ~~(6)~~(8) Upon submission by the ~~registered private professional engineer provider~~ of a
35 copy of his or her inspection report to the local governing authority, said local
36 governing authority shall be required to accept the inspection of the ~~registered private~~
37 ~~professional engineer provider~~ without the necessity of further inspection or approval

1 by the inspectors or other personnel employed by the local governing authority unless
 2 said governing authority has notified the ~~registered~~ private professional engineer
 3 provider, within two business days after the submission of the inspection report, that
 4 it finds the report incomplete or the inspection inadequate and has provided the
 5 ~~registered~~ private professional engineer provider with a written description of the
 6 deficiencies and specific code requirements that have not been adequately addressed.

7 ~~(7)~~(9) A local governing authority may provide for the prequalification of ~~registered~~
 8 private professional engineers providers who may perform plan reviews or inspections
 9 pursuant to this subsection. No ordinance implementing prequalification shall become
 10 effective until notice of the governing authority's intent to require prequalification and
 11 the specific requirements for prequalification have been advertised in the newspaper in
 12 which the sheriff's advertisements for that locality are published. The ordinance
 13 implementing prequalification shall provide for evaluation of the qualifications of a
 14 ~~registered~~ private professional engineer provider only on the basis of the engineer's
 15 private professional provider's expertise with respect to the objectives of ~~the inspection~~
 16 this subsection, as demonstrated by the engineer's private professional provider's
 17 experience, education, and training. Such ordinance may require a private professional
 18 provider to hold additional certifications, provided that such certifications are required
 19 by ordinance for plan review personnel currently directly employed by such local
 20 governing authority.

21 ~~(8)~~(10) Nothing in this subsection shall be construed to limit any public or private right
 22 of action designed to provide protection, rights, or remedies for consumers.

23 (11) This subsection shall not apply to hospitals, ambulatory health care centers, nursing
 24 homes, jails, penal institutions, airports, buildings or structures that impact national or
 25 state homeland security, or any building defined as a high-rise building in the State
 26 Minimum Standards Code; provided, however, that interior tenant build-out projects
 27 within high-rise buildings are not exempt from this subsection.

28 (12) If the local building official determines that the building construction or plans do
 29 not comply with the applicable codes, the official may deny the permit or request for a
 30 certificate of occupancy or certificate of completion, as appropriate, or may issue a
 31 stop-work order for the project or any portion thereof as provided by law, after giving
 32 notice to the owner, the architect of record, the engineer of record, or the contractor of
 33 record and by posting a copy of the order on the site of the project and opportunity to
 34 remedy the violation within the time limits set forth in the notice, if the official
 35 determines noncompliance with state or local laws, codes, or ordinances, provided that:

36 (A) The local building official shall be available to meet with the private professional
 37 provider within two business days to resolve any dispute after issuing a stop-work order

1 or providing notice to the applicant denying a permit or request for a certificate of
2 occupancy or certificate of completion; and

3 (B) If the local building official and the private professional provider are unable to
4 resolve the dispute, the matter shall be referred to the local enforcement agency's board
5 of appeals, if one exists, which shall consider the matter not later than its next
6 scheduled meeting. Any decisions by the local official, if there is no board of appeals,
7 may be appealed to the Department of Community Affairs as provided in this chapter.
8 The Department of Community Affairs shall develop rules and regulations which shall
9 establish reasonable time frames and fees to carry out the provisions of this paragraph.

10 (13) The local government, the local building official, and local building code
11 enforcement personnel and agents of the local government shall be immune from liability
12 to any person or party for any action or inaction by an owner of a building or by a private
13 professional provider or its duly authorized representative in connection with building
14 code plan review and inspection services by private professional providers as provided
15 in this subsection.

16 (14) No local enforcement agency, local code official, or local government shall adopt
17 or enforce any rules, procedures, policies, qualifications, or standards more stringent than
18 those prescribed in this subsection.

19 (15) Nothing in this subsection shall limit the authority of the local code official to issue
20 a stop-work order for a building project or any portion of such project, as provided by
21 law, after giving notice and opportunity to remedy the violation, if the official determines
22 that a condition on the building site constitutes an immediate threat to public safety and
23 welfare.

24 (16) When performing building code plan reviews or inspection services, a private
25 professional provider is subject to the disciplinary guidelines of the applicable
26 professional licensing board with jurisdiction over such private professional provider's
27 license or certification under Chapters 4 and 15 of Title 43, as applicable. Any complaint
28 processing, investigation, and discipline that arise out of a private professional provider's
29 performance of building code plan reviews or inspection services shall be conducted by
30 the applicable professional licensing board. Notwithstanding any disciplinary rules of the
31 applicable professional licensing board with jurisdiction over such private professional
32 provider's license or certification under Chapters 4 and 15 of Title 43, any local building
33 official may decline to accept building code plan reviews or inspection services submitted
34 by any private professional provider who has submitted multiple reports which required
35 revisions due to negligence, noncompliance, or deficiencies.

36 (17) Nothing in this subsection shall apply to inspections exempted in Code Section
37 8-2-26.1."

SECTION 2.

Chapter 2 of Title 25 of the Official Code of Georgia Annotated, relating to regulation of fire and other hazards to persons and property generally, is amended by striking subsection (a) of Code Section 25-2-14, relating to requirement, issuance, etc., of building permits and certificates of occupancy for buildings presenting special hazards to persons or property, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a)(1) Plans and specifications for all proposed buildings which come under classification in paragraph (1) of subsection (b) of Code Section 25-2-13 and which come under the jurisdiction of the office of the Commissioner pursuant to Code Section 25-2-12 shall be submitted to and receive approval by either the state fire marshal, the proper local fire marshal, or state inspector before any state, municipal, or county building permit may be issued or construction started. All such plans and specifications submitted as required by this subsection shall be accompanied by a fee in the amount provided in Code Section 25-2-4.1 and shall bear the seal and Georgia registration number of the drafting architect or engineer or shall otherwise have the approval of the Commissioner.

(2)(A) If the state fire marshal, the proper local fire marshal, state inspector, or designated code official cannot provide plan review within 30 business days of receiving a written application for permitting in accordance with the code official's plan submittal process, then, in lieu of plan review by personnel employed by such governing authority, any person, firm, or corporation engaged in a construction project which requires plan review, regardless if the plan review is required by subsection (a) of this Code section or by local county or municipal ordinance, shall have the option of retaining, at its own expense, a private professional provider to provide the required plan review. As used in this paragraph, the term 'private professional provider' means a professional engineer who holds a certificate of registration issued under Chapter 15 of Title 43 or a professional architect who holds a certificate of registration issued under Chapter 4 of Title 43, who is not an employee of or otherwise affiliated with or financially interested in the person, firm, or corporation engaged in the construction project to be reviewed.

(B) The state fire marshal, the proper local fire marshal, state inspector, or designated code official shall advise the permit applicant at the time the complete submittal application for a permit in accordance with the code official's plan submittal process is received that the state fire marshal, the proper local fire marshal, state inspector, or designated code official intends to complete the required plan review within the time prescribed by this paragraph or that the applicant may immediately secure the services of a private professional provider to complete the required plan review pursuant to this

1 subsection. The plan submittal process shall include those procedures and approvals
2 required by the local jurisdiction before plan review can take place. If the state fire
3 marshal, the proper local fire marshal, state inspector, or designated code official states
4 its intent to complete the required plan review within the time prescribed by this
5 paragraph, the applicant shall not be authorized to use the services of a private
6 professional provider as provided in this subsection. The permit applicant and the state
7 fire marshal, the proper local fire marshal, state inspector, or designated code official
8 may agree by mutual consent to extend the time period prescribed by this paragraph for
9 plan review if the characteristics of the project warrant such an extension. However,
10 if the state fire marshal, the proper local fire marshal, state inspector, or designated code
11 official states its intent to complete the required plan review within the time prescribed
12 by this paragraph, or any extension thereof mutually agreed to by the applicant and the
13 state fire marshal, the proper local fire marshal, state inspector, or designated code
14 official and does not permit the applicant to use the services of a private professional
15 provider and the state fire marshal, the proper local fire marshal, state inspector, or
16 designated code official fails to complete such plan review in the time prescribed by
17 this paragraph, or any extension thereof mutually agreed to by the applicant and the
18 state fire marshal, the proper local fire marshal, state inspector, or designated code
19 official, the state fire marshal, the proper local fire marshal, state inspector, or
20 designated code official shall issue the applicant a project initiation permit to allow the
21 applicant to begin work on the project, provided that portion of the initial phase of work
22 is compliant with applicable codes, laws, and rules. If a full permit is not issued for
23 the portion requested for permitting, then the state fire marshal, the proper local fire
24 marshal, state inspector, or designated code official shall have an additional 20 business
25 days to complete the review and issue the full permit. If the plans submitted for
26 permitting are denied for any deficiency, the time frames and process for resubmittal
27 shall be governed by divisions (2)(H)(iii) through (2)(H)(v) of this subsection.

28 (C) Any plan review or inspection conducted by a private professional provider shall
29 be no less extensive than plan reviews or inspections conducted by state, county, or
30 municipal personnel responsible for review of plans for compliance with the state's
31 minimum fire safety standards and, where applicable, the state's minimum accessibility
32 standards.

33 (D) The person, firm, or corporation retaining a private professional provider to
34 conduct a plan review shall be required to pay to the state fire marshal, the proper local
35 fire marshal, state inspector, or designated code official which requires the plan review
36 the same regulatory fees and charges which would have been required had the plan

1 review been conducted by the state fire marshal, the proper local fire marshal, state
2 inspector, or designated code official.

3 (E) A private professional provider performing plan reviews under this subsection shall
4 review construction plans to determine compliance with the state's minimum fire safety
5 standards in effect which were adopted pursuant to this chapter and, where applicable,
6 the state's minimum accessibility standards adopted pursuant to Chapter 3 of Title 30.
7 Upon determining that the plans reviewed comply with the applicable codes and
8 standards as adopted, such private professional provider shall prepare an affidavit or
9 affidavits on a form prescribed by the Safety Fire Commissioner certifying under oath
10 that the following is true and correct to the best of such private professional provider's
11 knowledge and belief and in accordance with the applicable professional standard of
12 care:

13 (i) The plans were reviewed by the affiant who is duly authorized to perform plan
14 review pursuant to this subsection and who holds the appropriate license or
15 certifications and insurance coverage and insurance coverage stipulated in this
16 subsection; and

17 (ii) The plans comply with the state's minimum fire safety standards in effect which
18 were adopted pursuant to this chapter and, where applicable, the state's minimum
19 accessibility standards adopted pursuant to Chapter 3 of Title 30.

20 (F) All private professional providers providing plan review services pursuant to this
21 subsection shall secure and maintain insurance coverage for professional liability
22 (errors and omissions) insurance. The limits of such insurance shall be not less than \$1
23 million per claim and \$1 million in aggregate coverage. Such insurance may be a
24 practice policy or project-specific coverage. If the insurance is a practice policy, it shall
25 contain prior acts coverage for the private professional provider. If the insurance is
26 project-specific, it shall continue in effect for two years following the issuance of the
27 certificate of final completion for the project. The state fire marshal, the proper local
28 fire marshal, state inspector, or designated code official may establish, for private
29 professional providers working within their respective jurisdictions specified by this
30 chapter, a system of registration listing the private professional providers within their
31 areas of competency and verifying compliance with the insurance requirements of this
32 subsection.

33 (G) The private professional provider shall be empowered to perform any plan review
34 required by the state fire marshal, the proper local fire marshal, state inspector, or
35 designated code official, regardless if the plan review is required by this subsection or
36 by local county or municipal ordinance, provided that the plan review is within the
37 scope of such private professional provider's area of expertise and competency. This

1 subsection shall not apply to hospitals, ambulatory health care centers, nursing homes,
2 jails, penal institutions, airports, buildings or structures that impact national or state
3 homeland security, or any building defined as a high-rise building in the State
4 Minimum Standards Code, provided that interior tenant build-out projects within
5 high-rise buildings are not exempt from this subsection, or plans related to Code
6 Section 25-2-16 or 25-2-17 or Chapter 8, 9, or 10 of this title.

7 (H)(i) The permit applicant shall submit a copy of the private professional provider's
8 plan review report to the state fire marshal, the proper local fire marshal, state
9 inspector, or designated code official. Such plan review report shall include at a
10 minimum all of the following:

11 (I) The affidavit of the private professional provider required pursuant to this
12 subsection;

13 (II) The applicable fees required for permitting;

14 (III) Other documents deemed necessary due to unusual construction or design,
15 smoke removal systems where applicable with engineering analysis, and additional
16 documentation required where performance based code options are used; and

17 (IV) Any documents required by the state fire marshal, the proper local fire
18 marshal, state inspector, or designated code official to determine that the permit
19 applicant has secured all other governmental approvals required by law.

20 (ii) No more than 30 business days after receipt of a permit application and the
21 private professional provider's plan review report required pursuant to this subsection,
22 the state fire marshal, the proper local fire marshal, state inspector, or designated code
23 official shall issue the requested permit or provide written notice to the permit
24 applicant identifying the specific plan features that do not comply with the applicable
25 codes or standards, as well as the specific reference to the relevant requirements. If
26 the state fire marshal, the proper local fire marshal, state inspector, or designated code
27 official does not provide a written notice of the plan deficiencies within the prescribed
28 30 day period, the permit application shall be deemed approved as a matter of law and
29 the permit shall be issued by the state fire marshal, the proper local fire marshal, state
30 inspector, or designated code official on the next business day.

31 (iii) If the state fire marshal, the proper local fire marshal, state inspector, or
32 designated code official provides a written notice of plan deficiencies to the permit
33 applicant within the prescribed 30 day period, the 30 day period shall be tolled
34 pending resolution of the matter. To resolve the plan deficiencies, the permit
35 applicant may elect to dispute the deficiencies pursuant to this chapter, the
36 promulgated rules and regulations adopted thereunder, or, where appropriate for

1 existing buildings, the local governing authority's appeals process or the permit
2 applicant may submit revisions to correct the deficiencies.

3 (iv) If the permit applicant submits revisions, the state fire marshal, the proper local
4 fire marshal, state inspector, or designated code official shall have the remainder of
5 the tolled 30 day period plus an additional five business days to issue the requested
6 permit or to provide a second written notice to the permit applicant stating which of
7 the previously identified plan features remain in noncompliance with the applicable
8 codes or standards, with specific reference to the relevant requirements. If the state
9 fire marshal, the proper local fire marshal, state inspector, or designated code official
10 does not provide the second written notice within the prescribed time period, the
11 permit shall be issued by the state fire marshal, the proper local fire marshal, state
12 inspector, or designated code official on the next business day.

13 (v) If the state fire marshal, the proper local fire marshal, state inspector, or
14 designated code official provides a second written notice of plan deficiencies to the
15 permit applicant within the prescribed time period, the permit applicant may elect to
16 dispute the deficiencies pursuant to this chapter, the rules and regulations promulgated
17 thereunder, or, where applicable for existing buildings, the local governing authority's
18 appeals process or the permit applicant may submit additional revisions to correct the
19 deficiencies. For all revisions submitted after the first revision, the state fire marshal,
20 the proper local fire marshal, state inspector, or designated code official shall have an
21 additional five business days to issue the requested permit or to provide a written
22 notice to the permit applicant stating which of the previously identified plan features
23 remain in noncompliance with the applicable codes or standards, with specific
24 reference to the relevant requirements.

25 (I) The state fire marshal may provide for the prequalification of private professional
26 providers who may perform plan reviews pursuant to this subsection by rule or
27 regulation authorized in Code Section 25-2-4. In addition, any local fire marshal, state
28 inspector, or designated code official may provide for the prequalification of private
29 professional providers who may perform plan reviews pursuant to this subsection;
30 however, no additional local ordinance implementing prequalification shall become
31 effective until notice of the proper local fire marshal, state inspector, or designated code
32 official's intent to require prequalification and the specific requirements for
33 prequalification have been advertised in the newspaper in which the sheriff's
34 advertisements for that locality are published. The ordinance implementing
35 prequalification shall provide for evaluation of the qualifications of a private
36 professional provider only on the basis of the private professional provider's expertise
37 with respect to the objectives of this subsection, as demonstrated by the private

1 professional provider's experience, education, and training. Such ordinance may
2 require a private professional provider to hold additional certifications, provided that
3 such certifications are required by ordinance or state law for plan review personnel
4 currently directly employed by such local governing authority.

5 (J) Nothing in this subsection shall be construed to limit any public or private right of
6 action designed to provide protection, rights, or remedies for consumers.

7 (K) If the state fire marshal, the proper local fire marshal, state inspector, or designated
8 code official determines that the building construction or plans do not comply with the
9 applicable codes or standards, the state fire marshal, the proper local fire marshal, state
10 inspector, or designated code official may deny the permit or request for a certificate
11 of occupancy or certificate of completion, as appropriate, or may issue a stop-work
12 order for the project or any portion thereof as provided by law or rule or regulation,
13 after giving notice and opportunity to remedy the violation, if the state fire marshal, the
14 proper local fire marshal, state inspector, or designated code official determines that
15 noncompliance exists with state laws, adopted codes or standards, or local ordinances,
16 provided that:

17 (i) The state fire marshal, the proper local fire marshal, state inspector, or designated
18 code official shall be available to meet with the private professional provider within
19 two business days to resolve any dispute after issuing a stop-work order or providing
20 notice to the applicant denying a permit or request for a certificate of occupancy or
21 certificate of completion; and

22 (ii) If the state fire marshal, the proper local fire marshal, state inspector, or
23 designated code official and the private professional provider are unable to resolve the
24 dispute, the matter shall be referred to the local enforcement agency's board of
25 appeals, except as provided in Code Section 25-2-12 and appeals for those proposed
26 buildings classified under paragraph (1) of subsection (b) of Code Section 25-2-13 or
27 any existing building under the specific jurisdiction of the state fire marshal's office
28 shall be made to the state fire marshal and further appeal shall be under Code Section
29 25-2-10.

30 (L) The state fire marshal, the proper local fire marshal, state inspector, local
31 government, designated code official enforcement personnel, or agents of the governing
32 authority shall be immune from liability to any person or party for any action or
33 inaction by an owner of a building or by a private professional provider or its duly
34 authorized representative in connection with building plan review services by private
35 professional providers as provided in this subsection.

36 (M) Except as provided in this paragraph, no proper local fire marshal, state inspector,
37 or designated code official shall adopt or enforce any rules, procedures, policies, or

1 standards more stringent than those prescribed in this subsection related to private
2 professional provider services.

3 (N) Nothing in this subsection shall limit the authority of the state fire marshal, the
4 proper local fire marshal, state inspector, or designated code official to issue a
5 stop-work order for a building project or any portion of such project, as provided by
6 law or rule or regulation authorized pursuant to Code Section 25-2-4, after giving notice
7 and opportunity to remedy the violation, if the official determines that a condition on
8 the building site constitutes an immediate threat to public safety and welfare.

9 (O) When performing building code plan reviews related to determining compliance
10 with the Georgia State Minimum Standard Codes most recently adopted by the
11 Department of Community Affairs, the state's minimum fire safety standards adopted
12 by the safety fire marshal, or the state's minimum accessibility standards pursuant to
13 Chapter 3 of Title 30, a private professional provider is subject to the disciplinary
14 guidelines of the applicable professional licensing board with jurisdiction over such
15 private professional provider's license or certification under Chapters 4 and 15 of Title
16 43, as applicable. Any complaint processing, investigation, and discipline that arise out
17 of a private professional provider's performance of the adopted building, fire safety, or
18 accessibility codes or standards plan review services shall be conducted by the
19 applicable professional licensing board or as allowed by state rule or regulation.
20 Notwithstanding any disciplinary rules of the applicable professional licensing board
21 with jurisdiction over such private professional provider's license or certification under
22 Chapters 4 and 15 of Title 43, the state fire marshal, the proper local fire marshal, state
23 inspector, or designated code official enforcement personnel may decline to accept
24 building plan reviews submitted by any private professional provider who has
25 submitted multiple reports which required revisions due to negligence, noncompliance,
26 or deficiencies."

27 **SECTION 3.**

28 This Act shall become effective on January 1, 2007.

29 **SECTION 4.**

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