

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:**

24 **SECTION 1.**

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

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 services within two business
9 days of receiving a valid written request for inspection, then, in lieu of plan review or
10 inspection by inspectors or other personnel employed by such governing authority, any
11 person, firm, or corporation engaged in a construction project which requires plan review
12 or inspection shall have the option of retaining, at its own expense, a private professional
13 provider to provide the required plan review or inspection. As used in this subsection,
14 the term 'private professional provider' means a professional engineer who holds a
15 certificate of registration issued under Chapter 15 of Title 43 or a professional architect
16 who holds a certificate of registration issued under Chapter 4 of Title 43, and who is not
17 an employee of or otherwise affiliated with or financially interested in such the person,
18 firm, or corporation, to provide the required inspection engaged in the construction
19 project to be reviewed or inspected. The local governing authority shall advise the permit
20 applicant in writing if requested by the applicant at the time the complete submittal
21 application for a permit in accordance with the code official’s plan submittal process is
22 received that the local governing authority intends to complete the required plan review
23 within the time prescribed by this paragraph or that the applicant may immediately secure
24 the services of a private professional provider to complete the required plan review
25 pursuant to this subsection. The plan submittal process shall include those procedures
26 and approvals required by the local jurisdiction before plan review can take place. If the
27 local governing authority states its intent to complete the required plan review within the
28 time prescribed by this paragraph, the applicant shall not be authorized to use the services
29 of a private professional provider as provided in this subsection. The permit applicant
30 and the local governing authority may agree by mutual consent to extend the time period
31 prescribed by this paragraph for plan review if the characteristics of the project warrant
32 such an extension. However, if the local governing authority states its intent to complete
33 the required plan review within the time prescribed by this paragraph, or any extension
34 thereof mutually agreed to by the applicant and the governing authority, and does not
35 permit the applicant to use the services of a private professional provider and the local
36 governing authority fails to complete such plan review in the time prescribed by this
37 paragraph, or any extension thereof mutually agreed to by the applicant and the governing

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

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

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

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

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

35 (B) The plans comply with the Georgia State Minimum Standard Codes most recently
36 adopted by the Department of Community Affairs and any locally adopted ordinances
37 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 or meet within the time required by this Code section, the matter
5 shall be referred to the local enforcement agency's board of appeals, if one exists,
6 which shall consider the matter not later than its next scheduled meeting. Any
7 decisions by the local official, if there is no board of appeals, may be appealed to the
8 Department of Community Affairs as provided in this chapter. The Department of
9 Community Affairs shall develop rules and regulations which shall establish reasonable
10 time frames and fees to carry out the provisions of this paragraph.

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

17 (14) No local enforcement agency, local code official, or local government shall adopt
18 or enforce any rules, procedures, policies, qualifications, or standards more stringent than
19 those prescribed in this subsection. This subsection shall not preempt any local laws,
20 rules, or procedures relating to the plan submittal process of local governing authorities.

21 (15) Nothing in this subsection shall limit the authority of the local code official to issue
22 a stop-work order for a building project or any portion of such project, which may go into
23 effect immediately as provided by law, after giving notice and opportunity to remedy the
24 violation, if the official determines that a condition on the building site constitutes an
25 immediate threat to public safety and welfare. A stop work order issued for reasons of
26 immediate threat to public safety and welfare shall be appealable to the local enforcement
27 agency's board of appeals, if one exists, in the manner provided by applicable law. Any
28 decisions by the local official, if there is no board of appeals, may be appealed to the
29 Department of Community Affairs as provided in this chapter.

30 (16) When performing building code plan reviews or inspection services, a private
31 professional provider is subject to the disciplinary guidelines of the applicable
32 professional licensing board with jurisdiction over such private professional provider's
33 license or certification under Chapters 4 and 15 of Title 43, as applicable. Any complaint
34 processing, investigation, and discipline that arise out of a private professional provider's
35 performance of building code plan reviews or inspection services shall be conducted by
36 the applicable professional licensing board. Notwithstanding any disciplinary rules of the
37 applicable professional licensing board with jurisdiction over such private professional

1 provider's license or certification under Chapters 4 and 15 of Title 43, any local building
 2 official may decline to accept building code plan reviews or inspection services submitted
 3 by any private professional provider who has submitted multiple reports which required
 4 revisions due to negligence, noncompliance, or deficiencies.

5 (17) Nothing in this subsection shall apply to inspections exempted in Code Section
 6 8-2-26.1."

7 SECTION 2.

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

13 "(a)(1) Plans and specifications for all proposed buildings which come under
 14 classification in paragraph (1) of subsection (b) of Code Section 25-2-13 and which come
 15 under the jurisdiction of the office of the Commissioner pursuant to Code Section
 16 25-2-12 shall be submitted to and receive approval by either the state fire marshal, the
 17 proper local fire marshal, or state inspector before any state, municipal, or county
 18 building permit may be issued or construction started. All such plans and specifications
 19 submitted as required by this subsection shall be accompanied by a fee in the amount
 20 provided in Code Section 25-2-4.1 and shall bear the seal and Georgia registration
 21 number of the drafting architect or engineer or shall otherwise have the approval of the
 22 Commissioner.

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

1 (B) The state fire marshal, the proper local fire marshal, state inspector, or designated
2 code official shall advise the permit applicant at the time the complete submittal
3 application for a permit in accordance with the code official's plan submittal process
4 is received that the state fire marshal, the proper local fire marshal, state inspector, or
5 designated code official intends to complete the required plan review within the time
6 prescribed by this paragraph or that the applicant may immediately secure the services
7 of a private professional provider to complete the required plan review pursuant to this
8 subsection. The plan submittal process shall include those procedures and approvals
9 required by the local jurisdiction before plan review can take place. If the state fire
10 marshal, the proper local fire marshal, state inspector, or designated code official states
11 its intent to complete the required plan review within the time prescribed by this
12 paragraph, the applicant shall not be authorized to use the services of a private
13 professional provider as provided in this subsection. The permit applicant and the state
14 fire marshal, the proper local fire marshal, state inspector, or designated code official
15 may agree by mutual consent to extend the time period prescribed by this paragraph for
16 plan review if the characteristics of the project warrant such an extension. However,
17 if the state fire marshal, the proper local fire marshal, state inspector, or designated code
18 official states its intent to complete the required plan review within the time prescribed
19 by this paragraph, or any extension thereof mutually agreed to by the applicant and the
20 state fire marshal, the proper local fire marshal, state inspector, or designated code
21 official and does not permit the applicant to use the services of a private professional
22 provider and the state fire marshal, the proper local fire marshal, state inspector, or
23 designated code official fails to complete such plan review in the time prescribed by
24 this paragraph, or any extension thereof mutually agreed to by the applicant and the
25 state fire marshal, the proper local fire marshal, state inspector, or designated code
26 official, the state fire marshal, the proper local fire marshal, state inspector, or
27 designated code official shall issue the applicant a project initiation permit to allow the
28 applicant to begin work on the project, provided that portion of the initial phase of work
29 is compliant with applicable codes, laws, and rules. If a full permit is not issued for
30 the portion requested for permitting, then the state fire marshal, the proper local fire
31 marshal, state inspector, or designated code official shall have an additional 20 business
32 days to complete the review and issue the full permit. If the plans submitted for
33 permitting are denied for any deficiency, the time frames and process for resubmittal
34 shall be governed by divisions (2)(H)(iii) through (2)(H)(v) of this subsection.
35 (C) Any plan review or inspection conducted by a private professional provider shall
36 be no less extensive than plan reviews or inspections conducted by state, county, or
37 municipal personnel responsible for review of plans for compliance with the state's

1 minimum fire safety standards and, where applicable, the state's minimum accessibility
2 standards.

3 (D) The person, firm, or corporation retaining a private professional provider to
4 conduct a plan review shall be required to pay to the state fire marshal, the proper local
5 fire marshal, state inspector, or designated code official which requires the plan review
6 the same regulatory fees and charges which would have been required had the plan
7 review been conducted by the state fire marshal, the proper local fire marshal, state
8 inspector, or designated code official.

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

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

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

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

1 areas of competency and verifying compliance with the insurance requirements of this
2 subsection.

3 (G) The private professional provider shall be empowered to perform any plan review
4 required by the state fire marshal, the proper local fire marshal, state inspector, or
5 designated code official, regardless if the plan review is required by this subsection or
6 by local county or municipal ordinance, provided that the plan review is within the
7 scope of such private professional provider's area of expertise and competency. This
8 subsection shall not apply to hospitals, ambulatory health care centers, nursing homes,
9 jails, penal institutions, airports, buildings or structures that impact national or state
10 homeland security, or any building defined as a high-rise building in the State
11 Minimum Standards Code, provided that interior tenant build-out projects within
12 high-rise buildings are not exempt from this subsection, or plans related to Code
13 Section 25-2-16 or 25-2-17 or Chapter 8, 9, or 10 of this title.

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

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

20 (II) The applicable fees required for permitting;

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

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

27 (ii) No more than 30 business days after receipt of a permit application and the
28 private professional provider's plan review report required pursuant to this subsection,
29 the state fire marshal, the proper local fire marshal, state inspector, or designated code
30 official shall issue the requested permit or provide written notice to the permit
31 applicant identifying the specific plan features that do not comply with the applicable
32 codes or standards, as well as the specific reference to the relevant requirements. If
33 the state fire marshal, the proper local fire marshal, state inspector, or designated code
34 official does not provide a written notice of the plan deficiencies within the prescribed
35 30 day period, the permit application shall be deemed approved as a matter of law and
36 the permit shall be issued by the state fire marshal, the proper local fire marshal, state
37 inspector, or designated code official on the next business day.

1 (iii) If the state fire marshal, the proper local fire marshal, state inspector, or
2 designated code official provides a written notice of plan deficiencies to the permit
3 applicant within the prescribed 30 day period, the 30 day period shall be tolled
4 pending resolution of the matter. To resolve the plan deficiencies, the permit
5 applicant may elect to dispute the deficiencies pursuant to this chapter, the
6 promulgated rules and regulations adopted thereunder, or, where appropriate for
7 existing buildings, the local governing authority's appeals process or the permit
8 applicant may submit revisions to correct the deficiencies.

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

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

31 (I) The state fire marshal may provide for the prequalification of private professional
32 providers who may perform plan reviews pursuant to this subsection by rule or
33 regulation authorized in Code Section 25-2-4. In addition, any local fire marshal, state
34 inspector, or designated code official may provide for the prequalification of private
35 professional providers who may perform plan reviews pursuant to this subsection;
36 however, no additional local ordinance implementing prequalification shall become
37 effective until notice of the proper local fire marshal, state inspector, or designated code

1 official's intent to require prequalification and the specific requirements for
2 prequalification have been advertised in the newspaper in which the sheriff's
3 advertisements for that locality are published. The ordinance implementing
4 prequalification shall provide for evaluation of the qualifications of a private
5 professional provider only on the basis of the private professional provider's expertise
6 with respect to the objectives of this subsection, as demonstrated by the private
7 professional provider's experience, education, and training. Such ordinance may
8 require a private professional provider to hold additional certifications, provided that
9 such certifications are required by ordinance or state law for plan review personnel
10 currently directly employed by such local governing authority.

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

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

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

28 (ii) If the state fire marshal, the proper local fire marshal, state inspector, or
29 designated code official and the private professional provider are unable to resolve the
30 dispute, the matter shall be referred to the local enforcement agency's board of
31 appeals, except as provided in Code Section 25-2-12 and appeals for those proposed
32 buildings classified under paragraph (1) of subsection (b) of Code Section 25-2-13 or
33 any existing building under the specific jurisdiction of the state fire marshal's office
34 shall be made to the state fire marshal and further appeal shall be under Code Section
35 25-2-10.

36 (L) The state fire marshal, the proper local fire marshal, state inspector, local
37 government, designated code official enforcement personnel, or agents of the governing

1 authority shall be immune from liability to any person or party for any action or
2 inaction by an owner of a building or by a private professional provider or its duly
3 authorized representative in connection with building plan review services by private
4 professional providers as provided in this subsection.

5 (M) Except as provided in this paragraph, no proper local fire marshal, state inspector,
6 or designated code official shall adopt or enforce any rules, procedures, policies, or
7 standards more stringent than those prescribed in this subsection related to private
8 professional provider services.

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

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

SECTION 3.

This Act shall become effective on January 1, 2007.

SECTION 4.

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