

Senate Bill 2

By: Senators Dugan of the 30th, Shafer of the 48th, Cowser of the 46th, Gooch of the 51st, Hill of the 32nd and others

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 60 of Title 36, Chapter 1 of Title 43, and Title 50 of the Official Code of
2 Georgia Annotated, relating to general provisions applicable to counties and municipal
3 corporations, general provisions regarding professions and businesses, and state government,
4 respectively, so as to modify the imposition of regulations on businesses and professions at
5 the state and local levels; to provide for definitions; to provide for schedules of fees and
6 timelines for permits, licenses, and other regulatory requirements; to provide for reduced fees
7 when such deadlines are not met; to provide for expedited processing of licenses and permits;
8 to provide for certain transferred professional licenses; to provide for exceptions; to
9 streamline the collection of personal information; to provide for notices and timing for
10 certain regulatory inspections; to provide for the development of a ready for partnership
11 certification for each county and municipality by the Department of Community Affairs; to
12 revise the procedure by which a state agency modifies its rules; to change the vote
13 requirement for legislative objections to proposed rule making; to provide a short title; to
14 provide for related matters; to repeal conflicting laws; and for other purposes.

15 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

16 **SECTION 1.**

17 This Act shall be known and may be cited as the "FAST Act - Fairness, Accountability,
18 Simplification, and Transparency - Empowering Our Small Businesses to Succeed."

19 **SECTION 2.**

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

23 "36-60-27.

24 (a) As used in this Code section, the term:

25 (1) 'Administrative fee' means a component of an occupation tax which approximates the
 26 reasonable cost of handling and processing the occupation tax.

27 (2) 'Occupation tax' means a tax levied on persons, partnerships, corporations, or other
 28 entities for engaging in an occupation, profession, or business and enacted by a local
 29 government as a revenue-raising ordinance or resolution.

30 (3) 'Regulatory fee' means payments, whether designated as license fees, permit fees, or
 31 by another name, which are required by a local government as an exercise of its police
 32 power and as a part of or as an aid to regulation of an occupation, profession, or business
 33 other than occupation taxes and administrative fees.

34 (4) 'Regulatory requirement' means an ordinance, resolution, rule, or regulation that
 35 affects an occupation, a profession, or the establishment or operation of a business.

36 (b) Each county or municipality which imposes regulatory fees or regulatory requirements
 37 within its jurisdiction shall establish a schedule of such regulatory fees and regulatory
 38 requirements within its jurisdiction which shall include timelines necessary for processing
 39 completed applications and a list of all documentation related to such regulatory
 40 requirements.

41 (c)(1) Upon receipt of any application related to regulatory requirements that necessitates
 42 a regulatory fee, a county or municipality shall require the applicant to pay 50 percent of
 43 regulatory fees due.

44 (2) Each county or municipality shall notify each applicant upon receipt and verification
 45 that an application is complete.

46 (3) Whenever the county or municipality does not meet an established deadline for
 47 processing a completed application, the regulatory fees associated with such deadline
 48 shall be reduced by 10 percent of the original fee for each ten days that the county or
 49 municipality fails to meet its established deadline.

50 (4)(A) Upon approval of an application, each county or municipality shall notify and
 51 inform the applicant of the amount of regulatory fees due, reduced by the amount, if
 52 any, required by paragraph (3) of this subsection, and shall require payment of such
 53 fees due prior to the issuance of any license, certificate, or permit.

54 (B) If the amount of regulatory fees due has been reduced by more than 50 percent of
 55 the original fee, such county or municipality shall issue the license, certificate, or
 56 permit along with any refund of regulatory fees due to the applicant.

57 (5) Any delay in the processing of an application outside the control of the county or
 58 municipality that is processing the application and that is directly caused by or
 59 attributable to a natural disaster, a state of emergency, or a mandated federal or state
 60 agency review or approval shall not count toward days for the purposes of this

61 subsection; provided, however, that the possibility of such delay is included in the
 62 schedule required pursuant to subsection (b) of this Code section.

63 (d) Each county or municipality which imposes regulatory requirements shall establish an
 64 expedited licensing and permitting process which will give priority processing for such
 65 licenses or permits for which the county or municipality is authorized to charge an
 66 additional fee in an amount not to exceed two times the regulatory fee for the license or
 67 permit for which the applicant is requesting expedited processing. The expedited licensing
 68 and permitting process shall remain subject to the conditions imposed by subsection (c) of
 69 this Code section.

70 (e) Each county or municipality in this state shall annually review its activities which
 71 require the collection of personal information and determine whether such information
 72 could be shared with or acquired from other agencies of government rather than requiring
 73 licensed or regulated individuals or entities to provide such information to multiple
 74 agencies.

75 (f) This Code section shall not apply to any proprietary function of a county or
 76 municipality.

77 (g) Nothing in this Code section shall be construed to create a private cause of action in
 78 any person or entity other than the applicant for the license or permit.

79 (h) To the extent, if any, that a provision of this Code section prevents a county or
 80 municipality from receiving federal funds, such provision shall not apply."

81 **SECTION 3.**

82 Chapter 1 of Title 43 of the Official Code of Georgia Annotated, relating to general
 83 provisions regarding professions and businesses, is amended by revising Code Section
 84 43-1-8, which was previously reserved, as follows:

85 "43-1-8.

86 (a)(1) Each professional licensing board established pursuant to this title shall, not later
 87 than January 1, 2018, or six months after the creation of such board, whichever is later,
 88 establish provisions for the issuance of transferred licenses to individuals whose legal
 89 residence is located in this state who have been licensed for such profession in another
 90 state whose criteria for licensing has been determined by such board to meet or exceed
 91 the qualifications for licensing in this state; provided, however, that, if a professional
 92 licensing board promulgates by rule that the issuance of such transferred licenses would
 93 pose a significant danger to the life, health, or safety of the public, then the board shall
 94 not be required to issue such transferred licenses.

95 (2) A transferred license shall not be issued to an individual whose comparable license
 96 was ever suspended or revoked.

97 (b) Each professional licensing board established pursuant to this title shall, not later than
 98 January 1, 2018, or six months after the creation of such board, whichever is later, review
 99 its activities which require the collection of personal information and determine whether
 100 such information could be shared with or acquired from other government agencies rather
 101 than requiring licensed or regulated individuals and businesses to provide such information
 102 to multiple agencies.

103 (c)(1) Effective January 1, 2018, each professional licensing board which engages in site
 104 visits for the purpose of verifying compliance with its rules and regulations by licensees
 105 shall only make such site visits after providing reasonable notice to the licensee of the
 106 date and time of such site visit. When possible, such site visits shall be scheduled during
 107 nonpeak hours of the licensee to minimize disruption of the licensee's business.

108 (2) Notwithstanding paragraph (1) of this subsection, surprise visits or inspections
 109 related to health, safety, or welfare may continue unabated.

110 (d) During each interaction with a licensee, each professional licensing board shall offer
 111 to provide information on how such licensee can participate in the rule-making processes
 112 of the board and how to request waivers or variances from related rules and regulations, if
 113 any are available.

114 (e) To the extent, if any, that a provision of this Code section prevents a professional
 115 licensing board from receiving federal funds, such provision shall not apply. Reserved."

116 **SECTION 4.**

117 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
 118 in Chapter 1, relating to general provisions regarding state government, by adding a new
 119 Code section to read as follows:

120 "50-1-10.

121 (a) As used in this Code section, the term:

122 (1) 'Regulatory fee' means payments, whether designated as license fees, permit fees, or
 123 by another name, which are required by a state agency as a part of or as an aid to
 124 regulation of an occupation, profession, or business.

125 (2) 'Regulatory requirement' means an ordinance, resolution, rule, or regulation that
 126 affects an occupation, a profession, or the establishment or operation of a business.

127 (3) 'State agency' means every state department, agency, bureau, office, commission,
 128 public corporation, and authority.

129 (b) Each state agency which imposes regulatory fees or regulatory requirements within its
 130 jurisdiction shall establish a schedule of such regulatory fees and regulatory requirements
 131 which shall include timelines necessary for processing completed applications and a list of
 132 all documentation related to such regulatory requirements.

133 (c)(1) Upon receipt of any application related to regulatory requirements that necessitates
134 a regulatory fee, a state agency shall require the applicant to pay 50 percent of regulatory
135 fees due.

136 (2) Each state agency shall notify each applicant upon receipt and verification that an
137 application is complete.

138 (3) Whenever the state agency does not meet an established deadline for processing a
139 completed application, the regulatory fees associated with such deadline shall be reduced
140 by 10 percent of the original fee for each ten days that the state agency fails to meet its
141 established deadline.

142 (4)(A) Upon approval of an application, each state agency shall notify and inform the
143 applicant of the amount of regulatory fees due, reduced by the amount, if any, required
144 by paragraph (3) of this subsection, and shall require payment of such fees due prior to
145 the issuance of any license, certificate, or permit.

146 (B) If the amount of regulatory fees due has been reduced by more than 50 percent of
147 the original fee, such state agency shall issue the license, certificate, or permit along
148 with any refund of regulatory fees due to the applicant.

149 (5) Any delay in the processing of an application outside the control of the state agency
150 that is processing the application and that is directly caused by or attributable to a natural
151 disaster, a state of emergency, a mandated federal review or approval, or another state
152 agency's review or approval shall not count toward days for the purposes of this
153 subsection; provided, however, that the possibility of such delay is included in the
154 schedule required pursuant to subsection (b) of this Code section.

155 (d) Each state agency which imposes regulatory requirements shall establish an expedited
156 licensing and permitting process which will give priority processing for such licenses or
157 permits for which the state agency is authorized to charge an additional fee in an amount
158 not to exceed two times the regulatory fee for the license or permit for which the applicant
159 is requesting expedited processing. The expedited licensing and permitting process shall
160 remain subject to the conditions imposed by subsection (c) of this Code section.

161 (e) Each state agency shall annually review its activities which require the collection of
162 personal information and determine whether such information could be shared with or
163 acquired from other agencies of government rather than requiring licensed or regulated
164 individuals or entities to provide such information to multiple agencies.

165 (f)(1) Effective January 1, 2018, each state agency which engages in site visits for the
166 purpose of verifying compliance with its rules and regulations by licensees shall only
167 make such site visits after providing reasonable notice to the licensee of the date and time
168 of such site visit. When possible, such site visits shall be scheduled during nonpeak
169 hours of the licensee to minimize disruption of the licensee's business.

- 170 (2) Notwithstanding paragraph (1) of this subsection, surprise visits or inspections
 171 related to health, safety, or welfare may continue unabated.
- 172 (g) Nothing in this Code section shall be applicable to the licensing and permitting duties
 173 of the Environmental Protection Division of the Department of Natural Resources under
 174 Chapter 5, 7, 9, 12, 13, or 14 of Title 12 or to the responsibilities of the Environmental
 175 Protection Division for licensing and permitting or other delegated duties under the federal
 176 Clean Air Act, Clean Water Act, or any other federal statute or regulation, or contract or
 177 agreement with the United States Army Corps of Engineers.
- 178 (h) Nothing in this Code section shall be construed to create a private cause of action in
 179 any person or entity other than the applicant for the license or permit.
- 180 (i) During each interaction with a regulated entity, each state agency shall offer to provide
 181 information on how such regulated entity can participate in the rule-making processes of
 182 the State Agency and how to request waivers or variances from related rules and
 183 regulations, if any are available.
- 184 (j) To the extent, if any, that a provision of this Code section prevents a state agency from
 185 receiving federal funds, such provision shall not apply."

186 **SECTION 5.**

187 Said title is further amended in Chapter 8, relating to the Department of Community Affairs,
 188 by adding a new article to read as follows:

189 "ARTICLE 13

190 50-8-300.

191 (a) The Department of Community Affairs shall establish a voluntary certification program
 192 for each county and municipality in this state that shall be known as Ready for Partnership
 193 Georgia.

194 (b)(1) There shall be a council created to establish metrics in accordance with subsection
 195 (c) of this Code section for certifying counties and municipalities as Ready for
 196 Partnership Georgia certified and to provide for a process of review, renewal, and
 197 revocation of such certifications.

198 (2) Such council shall be chaired by the commissioner of the Department of Community
 199 Affairs, who shall be a voting member, and shall be composed of 12 additional members
 200 as follows:

201 (A) Three members to be appointed by the Governor;

202 (B) Three members to be appointed by the President of the Senate;

203 (C) Three members to be appointed by the Speaker of the House of Representatives;

- 204 (D) One member to be recommended by the Georgia Municipal Association and
 205 approved by the Governor;
- 206 (E) One member to be recommended by the Association County Commissioners of
 207 Georgia and approved by the Governor; and
- 208 (F) One member to be recommended by the Georgia Chamber of Commerce and
 209 approved by the Governor.
- 210 (c) The certification shall be based upon metrics which shall include, but are not limited
 211 to:
- 212 (1) Licensing and permitting fees charged by the county or municipality;
 213 (2) The time required by the county or municipality to process applications for licenses
 214 and permits and other regulatory requirements for businesses and professions in the
 215 county or municipality;
- 216 (3) The manner by which dispute resolution over such licensing, permitting, and
 217 regulatory requirements is handled;
- 218 (4) The consolidation of forms and documents to avoid repetitive or duplicative requests
 219 for information; and
- 220 (5) Other items which are determined by the council to be relevant to the development
 221 of such certification."

222 **SECTION 6.**

223 Said title is further amended in Code Section 50-13-4, relating to procedural requirements
 224 for adoption, amendment, or repeal of rules, emergency rules, limitation on action to contest
 225 rule, and legislative override, by revising subsections (a) and (f) as follows:

226 "(a) Prior to the adoption, amendment, or repeal of any rule, other than interpretive rules
 227 or general statements of policy, the agency shall:

- 228 (1) Give at least 30 days' notice of its ~~intended action~~ intent to modify its rules. The
 229 notice shall include an exact copy of the proposed ~~rule~~ modification to its rules and a
 230 synopsis of the proposed ~~rule~~ modification to its rules. The synopsis shall be distributed
 231 with and in the same manner as the proposed ~~rule~~ modification to its rules. The synopsis
 232 shall contain a statement of the purpose and the main features of the proposed ~~rule~~, and,
 233 ~~in the case of a proposed amendatory rule, the synopsis also shall indicate~~ modification
 234 to its rules, and, when applicable, the differences between the existing rule and the
 235 proposed rule. The notice shall also include the exact date on which the agency shall
 236 consider the adoption, amendment, or repeal of the rule and shall include the time and
 237 place in order that interested persons may present their views thereon. The notice shall
 238 also contain a citation to and concise explanation of the statutory authority pursuant to
 239 which the rule is proposed for adoption, amendment, or repeal and, if the proposal is an

240 amendment or repeal of an existing rule, the ~~rule~~ modification to the rules shall be clearly
 241 identified. The notice shall also include a certification that such proposed modification
 242 to its rules has been reviewed by the Attorney General and that the Attorney General has
 243 found such proposed modification to be within the agency's statutory authority to adopt.

244 The notice shall be mailed to all persons who have requested in writing that they be
 245 placed upon a mailing list which shall be maintained by the agency for advance notice
 246 of its rule-making proceedings and who have tendered the actual cost of such mailing as
 247 from time to time estimated by the agency. Such notice shall also be published on the
 248 agency's web page and sent to each individual or entity regulated by the agency by e-mail
 249 to the extent the agency has a record of a valid e-mail address for such individual or
 250 entity;

251 (1.1) Prepare an economic impact analysis for each proposed modification to its rules
 252 that would affect revenue for or require expenditures by the state or a local government
 253 which shall state the name and title of the officer or employee responsible for its
 254 preparation or approval and which shall state for each year of the first five years that the
 255 proposed rule would be in effect:

256 (A) The additional estimated costs to the state and to local governments as a result of
 257 enforcing or administering the rules as modified;

258 (B) The estimated reduction in costs to the state and to local governments as a result
 259 of enforcing or administering the rules as modified;

260 (C) The estimated loss or increase in revenue to the state or to local governments as a
 261 result of enforcing or administering the rules as modified; and

262 (D) If applicable, that enforcement or administration of the rules as modified would not
 263 have foreseeable implications relating to costs or revenues of the state or local
 264 governments;

265 (1.2) Prepare a note about public benefits and costs showing the name and title of the
 266 officer or employee responsible for preparing or approving the note and stating for each
 267 year of the first five years that the proposed modification to its rules would be in effect:

268 (A) The public benefits expected as a result of the modification of its rules; and

269 (B) The probable economic costs to persons required to comply with the rules as
 270 modified;

271 (2) Afford to all interested persons reasonable opportunity to submit data, views, or
 272 arguments, orally or in writing. In the case of substantive rules, opportunity for oral
 273 hearing must be granted if requested by 25 persons who will be directly affected by the
 274 proposed rule, by a governmental subdivision, or by an association having not less
 275 than 25 members. The agency shall consider fully all written and oral submissions
 276 respecting the proposed rule. Upon adoption of a rule, the agency, if requested to do so

277 by an interested person either prior to adoption or within 30 days thereafter, shall issue
 278 a concise statement of the principal reasons for and against its adoption and incorporate
 279 therein its reason for overruling the consideration urged against its adoption;

280 (3) In the formulation and adoption of any rule which will have an economic impact on
 281 businesses in the state, reduce the economic impact of the rule on small businesses which
 282 are independently owned and operated, are not dominant in their field, and employ 100
 283 employees or less by implementing one or more of the following actions when it is legal
 284 and feasible in meeting the stated objectives of the statutes which are the basis of the
 285 proposed rule:

286 (A) Establish differing compliance or reporting requirements or timetables for small
 287 businesses;

288 (B) Clarify, consolidate, or simplify the compliance and reporting requirements under
 289 the rule for small businesses;

290 (C) Establish performance rather than design standards for small businesses; or

291 (D) Exempt small businesses from any or all requirements of the rules; and

292 (4) In the formulation and adoption of any rule, an agency shall choose an alternative
 293 that does not impose excessive regulatory costs on any regulated person or entity which
 294 costs could be reduced by a less expensive alternative that fully accomplishes the stated
 295 objectives of the statutes which are the basis of the proposed rule."

296 "(f)(1) In the event a standing committee to which a notice is assigned as provided in
 297 subsection (e) of this Code section files an objection which has been approved by a
 298 majority vote of such committee to a proposed rule prior to its adoption and the agency
 299 adopts the proposed rule over the objection, the rule may be considered by the branch of
 300 the General Assembly whose committee objected to its adoption by the introduction of
 301 a resolution for the purpose of overriding the rule at any time within the first 30 days of
 302 the next regular session of the General Assembly. It shall be the duty of any agency
 303 which adopts a proposed rule over such objection so to notify the presiding officers of the
 304 Senate and the House of Representatives, the chairpersons of the Senate and House
 305 committees to which the rule was referred, and the legislative counsel within ten days
 306 after the adoption of the rule. In the event the resolution is adopted by such branch of the
 307 General Assembly, it shall be immediately transmitted to the other branch of the General
 308 Assembly. It shall be the duty of the presiding officer of the other branch of the General
 309 Assembly to have such branch, within five days after the receipt of the resolution, to
 310 consider the resolution for the purpose of overriding the rule. In the event the resolution
 311 is adopted by ~~two-thirds~~ a majority of the votes of each branch of the General Assembly,
 312 the rule shall be void on the day after the adoption of the resolution by the second branch
 313 of the General Assembly. ~~In the event the resolution is ratified by less than two-thirds~~

314 ~~of the votes of either branch, the resolution shall be submitted to the Governor for his or~~
 315 ~~her approval or veto. In the event of his or her veto, the rule shall remain in effect. In the~~
 316 ~~event of his or her approval, the rule shall be void on the day after the date of his or her~~
 317 ~~approval.~~

318 (2) In the event each standing committee to which a notice is assigned as provided in
 319 subsection (e) of this Code section files an objection to a proposed rule prior to its
 320 adoption by a two-thirds' vote of the members of the committee who were voting
 321 members on the tenth day of the current session, after having given public notice of the
 322 time, place, and purpose of such vote at least 48 hours in advance, as well as the
 323 opportunity for members of the public including the promulgating agency, to have a
 324 reasonable time to comment on the proposed committee action at the hearing, the
 325 effectiveness of such rule shall be stayed until the next legislative session at which time
 326 the rule may be considered by the General Assembly by the introduction of a resolution
 327 in either branch of the General Assembly for the purpose of overriding the rule at any
 328 time within the first 30 days of the next regular session of the General Assembly. In the
 329 event the resolution is adopted by the branch of the General Assembly in which it was
 330 introduced, it shall be immediately transmitted to the other branch of the General
 331 Assembly. It shall be the duty of the presiding officer of the other branch of the General
 332 Assembly to have such branch, within five days after the receipt of the resolution, to
 333 consider the resolution for the purpose of overriding the rule. In the event the resolution
 334 is adopted by ~~two-thirds~~ a majority of the votes of each branch of the General Assembly,
 335 the rule shall be void on the day after the adoption of the resolution by the second branch
 336 of the General Assembly. ~~In the event the resolution is ratified by less than two-thirds~~
 337 ~~of the votes of either branch, the resolution shall be submitted to the Governor for his or~~
 338 ~~her approval or veto. In the event of his or her veto, the rule shall remain in effect. In the~~
 339 ~~event of his or her approval, the rule shall be void on the day after the date of his or her~~
 340 ~~approval.~~ If after the thirtieth legislative day of the legislative session of which the
 341 challenged rule was to be considered the General Assembly has not considered an
 342 override of the challenged rule pursuant to this subsection, the rule shall then immediately
 343 take effect."

344 **SECTION 7.**

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