

The House Committee on Small Business Development offers the following substitute to SB 2:

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 revise the procedure by which a state agency modifies its
11 rules; to change the vote requirement for legislative objections to proposed rule making; to
12 provide a short title; to provide for related matters; to provide for effective dates; to repeal
13 conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

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

18 **SECTION 2.**

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

22 "36-60-27.

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

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

- 26 (2) 'Alternative permitting, review, or inspection' means the processes provided for in
27 Code Section 8-2-26.
- 28 (3) 'Occupation tax' means a tax levied on persons, partnerships, corporations, or other
29 entities for engaging in an occupation, profession, or business and enacted by a local
30 government as a revenue-raising ordinance or resolution.
- 31 (4) 'Regulatory fees' shall have the same meaning as set forth in Code Section 48-13-5.
- 32 (5) 'Regulatory requirement' means an ordinance, resolution, rule, or regulation that
33 affects an occupation, a profession, or the establishment or operation of a business.
- 34 (b) Each county or municipality which imposes regulatory fees or regulatory requirements
35 within its jurisdiction shall establish a schedule of such regulatory fees and regulatory
36 requirements within its jurisdiction which shall include timelines necessary for processing
37 completed applications and a list of all documentation related to such regulatory
38 requirements.
- 39 (c)(1) Upon receipt of any application related to regulatory requirements that necessitates
40 a regulatory fee, a county or municipality shall require the applicant to pay only 50
41 percent of regulatory fees due.
- 42 (2) Each county or municipality shall notify each applicant upon receipt and verification
43 that an application is complete.
- 44 (3) Whenever a county or municipality does not meet an established deadline for
45 processing a completed application, the regulatory fees associated with such deadline
46 shall be reduced by 10 percent of the original fee for each ten business days that the
47 county or municipality fails to meet its established deadline.
- 48 (4)(A) Upon approval of an application, each county or municipality shall notify and
49 inform the applicant of the amount of regulatory fees due, reduced by the amount, if
50 any, required by paragraph (3) of this subsection, and shall require payment of such
51 fees due prior to the issuance of any license, certificate, or permit.
- 52 (B) If the amount of regulatory fees due has been reduced by more than 50 percent of
53 the original fee, such county or municipality shall issue the license, certificate, or
54 permit along with any refund of regulatory fees due to the applicant.
- 55 (5) Any delay in the processing of an application outside the control of the county or
56 municipality that is processing the application and that is directly caused by or
57 attributable to a natural disaster, a state of emergency, a mandated federal or state agency
58 review or approval, or through fault of the applicant shall not count toward days for the
59 purposes of this subsection; provided, however, that the possibility of such delay is
60 included in the schedule required pursuant to subsection (b) of this Code section.
- 61 (6) Whenever a county or municipality does not meet an established deadline for
62 processing a completed application, an applicant may elect to use the alternative

63 permitting, review, or inspection process and the county or municipality shall not collect
 64 any additional amounts for such application in excess of 50 percent of the original fee
 65 that was due upon application.

66 (d) Each county or municipality which imposes regulatory requirements shall establish an
 67 expedited licensing and permitting process which will give priority processing for such
 68 licenses or permits for which the county or municipality is authorized to charge an
 69 additional fee in an amount not to exceed two times the regulatory fee for the license or
 70 permit for which the applicant is requesting expedited processing. The expedited licensing
 71 and permitting process shall remain subject to the conditions imposed by subsection (c) of
 72 this Code section and paragraph (6) of Code Section 48-13-5.

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

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

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

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

84 **SECTION 3.**

85 Chapter 1 of Title 43 of the Official Code of Georgia Annotated, relating to general
 86 provisions regarding professions and businesses, is amended by revising Code Section
 87 43-1-8, which is reserved, as follows:

88 "43-1-8.

89 (a)(1) Each professional licensing board established pursuant to this title shall, not later
 90 than January 1, 2019, or six months after the creation of such board, whichever is later,
 91 establish provisions for the issuance of transferred licenses to individuals whose domicile
 92 is located in this state who have been licensed for such profession in another state whose
 93 criteria for licensing has been determined by such board to meet or exceed the
 94 qualifications for licensing in this state; provided, however, that, if a professional
 95 licensing board promulgates by rule that the issuance of such transferred licenses would
 96 pose a significant danger to the life, health, or safety of the public, then the board shall
 97 not be required to issue such transferred licenses.

- 98 (2) A transferred license shall not be issued to an individual whose comparable license
 99 is suspended or revoked.
- 100 (b) Each professional licensing board established pursuant to this title shall, not later than
 101 January 1, 2019, or six months after the creation of such board, whichever is later, review
 102 its activities which require the collection of personal information and determine whether
 103 such information could be shared with or acquired from other government agencies rather
 104 than requiring licensed or regulated individuals and businesses to provide such information
 105 to multiple agencies.
- 106 (c)(1) Each professional licensing board which engages in site visits for the purpose of
 107 verifying compliance with its rules and regulations by licensees shall only make such site
 108 visits after providing reasonable notice to the licensee of the date and time of such site
 109 visit. Such site visits shall be scheduled during nonpeak hours of the licensee to
 110 minimize disruption of the licensee's business.
- 111 (2) Notwithstanding paragraph (1) of this subsection, surprise visits or inspections
 112 related to health, safety, or welfare may continue unabated.
- 113 (d) During each interaction with a licensee, each professional licensing board shall offer
 114 to provide information on how such licensee can participate in the rule-making processes
 115 of the board and how to request waivers or variances from related rules and regulations, if
 116 any are available.
- 117 (e) To the extent, if any, that a provision of this Code section prevents a professional
 118 licensing board from receiving federal funds, such provision shall not apply. Reserved."

119 **SECTION 4.**

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

123 "50-1-10.

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

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

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

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

132 (b) Each state agency which imposes regulatory fees or regulatory requirements within its
 133 jurisdiction shall establish a schedule of such regulatory fees and regulatory requirements

134 which shall include timelines necessary for processing completed applications and a list of
135 all documentation related to such regulatory requirements.

136 (c)(1) Each state agency shall notify each applicant upon receipt and verification that an
137 application is complete.

138 (2) Whenever a 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 business days that the state agency fails to
141 meet its established deadline.

142 (3) 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 (2) of this subsection, and shall issue the license, certificate, or permit along
145 with any refund of regulatory fees due to the applicant.

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

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

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

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

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

169 (g) Nothing in this Code section shall be applicable to:

170 (1) Any regulatory requirement under the authority of the office of the Secretary of State;

- 171 (2) The licensing and permitting duties of the Environmental Protection Division of the
 172 Department of Natural Resources under Title 12;
- 173 (3) The responsibilities of the Environmental Protection Division of the Department of
 174 Natural Resources for licensing and permitting or other delegated duties under the federal
 175 Clean Air Act, Clean Water Act, or any other federal statute or regulation, or under a
 176 contract or agreement with the United States Army Corps of Engineers;
- 177 (4) Title 43; or
- 178 (5) Chapter 5 of Title 10.
- 179 (h) Nothing in this Code section shall be construed to create a private cause of action in
 180 any person or entity other than the applicant for the license or permit.
- 181 (i) During each interaction with a regulated entity, each state agency shall offer to provide
 182 information on how such regulated entity can participate in the rule-making processes of
 183 the state agency and how to request waivers or variances from related rules and regulations,
 184 if any are available.
- 185 (j) To the extent, if any, that a provision of this Code section prevents a state agency from
 186 receiving federal funds, such provision shall not apply."

187 **SECTION 5.**

188 Said title is further amended in Code Section 50-13-4, relating to procedural requirements
 189 for adoption, amendment, or repeal of rules, emergency rules, limitation on action to contest
 190 rule, and legislative override, by revising subsections (a) and (f) and by adding a new
 191 subsection to read as follows:

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

194 (1) Give at least 30 days' notice of its ~~intended action~~ intent to modify its rules. The
 195 notice shall include an exact copy of the proposed ~~rule~~ modification to its rules and a
 196 synopsis of the proposed ~~rule~~ modification to its rules. The synopsis shall be distributed
 197 with and in the same manner as the proposed ~~rule~~ modification to its rules. The synopsis
 198 shall contain a statement of the purpose and the main features of the proposed ~~rule~~, ~~and,~~
 199 ~~in the case of a proposed amendatory rule, the synopsis also shall indicate~~ modification
 200 to its rules, and, when applicable, the differences between the existing rule and the
 201 proposed rule. The notice shall also include the exact date on which the agency shall
 202 consider the adoption, amendment, or repeal of the rule and shall include the time and
 203 place in order that interested persons may present their views thereon. The notice shall
 204 also contain a citation to and concise explanation of the statutory authority pursuant to
 205 which the rule is proposed for adoption, amendment, or repeal and, if the proposal is an
 206 amendment or repeal of an existing rule, the ~~rule~~ modification to the rules shall be clearly

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

214 (1.1) Prepare an economic impact analysis for each proposed modification to its rules
 215 that would affect revenue for or require expenditures by the state or a local government
 216 which shall state the name and title of the officer or employee responsible for its
 217 preparation or approval and which shall state for each year of the first five years that the
 218 proposed rule would be in effect:

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

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

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

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

228 (1.2) Prepare a note about public benefits and costs showing the name and title of the
 229 officer or employee responsible for preparing or approving the note and stating for each
 230 year of the first five years that the proposed modification to its rules would be in effect:

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

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

234 (2) Afford to all interested persons reasonable opportunity to submit data, views, or
 235 arguments, orally or in writing. In the case of substantive rules, opportunity for oral
 236 hearing must be granted if requested by 25 persons who will be directly affected by the
 237 proposed rule, by a governmental subdivision, or by an association having not less
 238 than 25 members. The agency shall consider fully all written and oral submissions
 239 respecting the proposed rule. Upon adoption of a rule, the agency, if requested to do so
 240 by an interested person either prior to adoption or within 30 days thereafter, shall issue
 241 a concise statement of the principal reasons for and against its adoption and incorporate
 242 therein its reason for overruling the consideration urged against its adoption;

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

249 (A) Establish differing compliance or reporting requirements or timetables for small
 250 businesses;

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

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

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

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

259 (a.1) Paragraphs (1.1) and (1.2) of subsection (a) of this Code section shall not apply to an
 260 agency adopting, amending, or repealing a rule that is related to a program that has been
 261 delegated to the state by the federal government."

262 "(f)(1) In the event a standing committee to which a notice is assigned as provided in
 263 subsection (e) of this Code section files an objection which has been approved by a
 264 majority vote of such committee to a proposed rule prior to its adoption and the agency
 265 adopts the proposed rule over the objection, the rule may be considered by the branch of
 266 the General Assembly whose committee objected to its adoption by the introduction of
 267 a resolution for the purpose of overriding the rule at any time within the first 30 days of
 268 the next regular session of the General Assembly. It shall be the duty of any agency
 269 which adopts a proposed rule over such objection so to notify the presiding officers of the
 270 Senate and the House of Representatives, the chairpersons of the Senate and House
 271 committees to which the rule was referred, and the legislative counsel within ten days
 272 after the adoption of the rule. In the event the resolution is adopted by such branch of the
 273 General Assembly, it shall be immediately transmitted to the other branch of the General
 274 Assembly. It shall be the duty of the presiding officer of the other branch of the General
 275 Assembly to have such branch, within five days after the receipt of the resolution, to
 276 consider the resolution for the purpose of overriding the rule. In the event the resolution
 277 is adopted by ~~two-thirds~~ a majority of the votes of each branch of the General Assembly,
 278 the rule shall be void on the day after the adoption of the resolution by the second branch
 279 of the General Assembly. ~~In the event the resolution is ratified by less than two-thirds~~

280 ~~of the votes of either branch, the resolution shall be submitted to the Governor for his or~~
 281 ~~her approval or veto. In the event of his or her veto, the rule shall remain in effect. In the~~
 282 ~~event of his or her approval, the rule shall be void on the day after the date of his or her~~
 283 ~~approval.~~

284 (2) In the event each standing committee to which a notice is assigned as provided in
 285 subsection (e) of this Code section files an objection to a proposed rule prior to its
 286 adoption by a two-thirds' vote of the members of the committee who were voting
 287 members on the tenth day of the current session, after having given public notice of the
 288 time, place, and purpose of such vote at least 48 hours in advance, as well as the
 289 opportunity for members of the public including the promulgating agency, to have a
 290 reasonable time to comment on the proposed committee action at the hearing, the
 291 effectiveness of such rule shall be stayed until the next legislative session at which time
 292 the rule may be considered by the General Assembly by the introduction of a resolution
 293 in either branch of the General Assembly for the purpose of overriding the rule at any
 294 time within the first 30 days of the next regular session of the General Assembly. In the
 295 event the resolution is adopted by the branch of the General Assembly in which it was
 296 introduced, it shall be immediately transmitted to the other branch of the General
 297 Assembly. It shall be the duty of the presiding officer of the other branch of the General
 298 Assembly to have such branch, within five days after the receipt of the resolution, to
 299 consider the resolution for the purpose of overriding the rule. In the event the resolution
 300 is adopted by ~~two-thirds~~ a majority of the votes of each branch of the General Assembly,
 301 the rule shall be void on the day after the adoption of the resolution by the second branch
 302 of the General Assembly. ~~In the event the resolution is ratified by less than two-thirds~~
 303 ~~of the votes of either branch, the resolution shall be submitted to the Governor for his or~~
 304 ~~her approval or veto. In the event of his or her veto, the rule shall remain in effect. In the~~
 305 ~~event of his or her approval, the rule shall be void on the day after the date of his or her~~
 306 ~~approval.~~ If after the thirtieth legislative day of the legislative session of which the
 307 challenged rule was to be considered the General Assembly has not considered an
 308 override of the challenged rule pursuant to this subsection, the rule shall then immediately
 309 take effect."

310 **SECTION 6.**

311 (a) This section and sections 5 and 7 of this Act shall become effective July 1, 2018.

312 (b) Sections 1, 2, 3, and 4 of this Act shall become effective January 1, 2019.

313 **SECTION 7.**

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