

Senate Bill 49

By: Senators Dixon of the 45th, Miller of the 49th, Anderson of the 24th, Gooch of the 51st,
Dugan of the 30th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 8 of the Official Code of Georgia Annotated, relating to
2 standards and requirements for construction, alteration, etc. of buildings and other structures,
3 so as to provide procedures for alternative plan review, permitting, and inspection by private
4 professional providers so as to allow applicants to elect whether to retain, at their own
5 expense, a private professional provider to provide required plan reviews or inspections of
6 certain buildings; to provide for fees; to provide for related matters; to provide for an
7 effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 2 of Title 8 of the Official Code of Georgia Annotated, relating to standards and
11 requirements for construction, alteration, etc. of buildings and other structures, is amended
12 by revising subsection (g) of Code Section 8-2-26, relating to enforcement of codes
13 generally, employment and training of inspectors, and contracts for administration and
14 enforcement of codes, as follows:

15 "(g)(1) As used in this subsection, the term:

16 (A) 'Complete application' means a submitted plan, application, or request for
17 inspection that contains all of the information and supporting documentation required
18 by the county or municipality for it to make the determination as to whether the plan,
19 application, or request is in compliance with regulatory requirements.

20 (B) 'Private professional provider' means a professional engineer who holds a
21 certificate of registration issued under Chapter 15 of Title 43 or a professional architect
22 who holds a certificate of registration issued under Chapter 4 of Title 43, who is not an
23 employee of or otherwise affiliated with or financially interested in the person, firm, or
24 corporation engaged in the construction project to be reviewed or inspected.

25 (C) 'Regulatory fee' means payments, whether designated as permit fees, application
26 fees, or by another name, that are required by a local government as an exercise of its
27 police power, its regulation of business, and as a part of or as an aid to regulation of
28 construction related activities under this chapter.

29 (D) 'Regulatory requirements' means the requirements determined by a county or
30 municipality to be necessary for approval of plans, permits, or applications under this
31 chapter; provided, however, that with respect to any application, such requirements
32 shall include the Georgia State Minimum Standard Codes most recently adopted by the
33 Department of Community Affairs and any locally adopted ordinances and amendments
34 to such codes; applicable zoning ordinances and conditions; design standards; and other
35 state and local laws, regulations, and ordinances applicable to the application in
36 question.

37 (2) Each county or municipality which imposes regulatory fees or regulatory
38 requirements within its jurisdiction shall establish and make available a schedule of such
39 regulatory fees and regulatory requirements which shall include a list of all
40 documentation related to compliance with such regulatory requirements, including the
41 requirements necessary for submittal of a complete application. The amount of any
42 regulatory fee shall approximate the reasonable cost of the actual regulatory activity

43 performed by the local government and shall be subject to the provisions of paragraph (6)
44 of Code Section 48-13-5.

45 (3) No later than five business days after receipt of any application related to regulatory
46 requirements, a local building official of a county or municipality shall notify each
47 applicant as to whether the submitted documents meet the requirements of a complete
48 application. Except as otherwise provided in this paragraph, time spent by a county or
49 municipality determining whether an application is complete shall count toward the total
50 30 days for plan review or inspection. If a local building official determines that the
51 application is not complete, the applicant shall be provided written notice identifying the
52 items that are not complete. The 30 day time period is tolled when the application is
53 rejected as incomplete. If within 30 days after the county or municipality has provided
54 notice that the application is incomplete the permit applicant submits revisions to address
55 the identified deficiencies, the local building official shall have an additional five
56 business days to review the application for completeness.

57 (4) At the time a county or municipality notifies ~~Upon notification to~~ the applicant that
58 a complete application has been accepted, ~~a county or municipality~~ it shall also notify
59 ~~each such~~ applicant as to whether the personnel employed or contracted by such county
60 or municipality will be able to provide regulatory action within 30 days for plan review
61 or provide inspection services within two business days of receiving a valid written
62 request for inspection.

63 ~~(5) If the county or municipality determines that the personnel employed or contracted~~
64 ~~by such county or municipality cannot provide regulatory action or inspection services~~
65 ~~within the time frames required under paragraph (4) of this subsection, the~~ The applicant
66 shall have the option of retaining, at its own expense, a private professional provider to
67 provide the required plan review or inspection in accordance with the provisions of this
68 Code section irrespective of whether the county or municipality determines that the
69 personnel employed or contracted by such county or municipality can provide regulatory

70 action or inspection services within the time frames required under paragraph (4) of this
71 subsection. If the applicant elects to utilize the services of a private professional
72 provider, the regulatory fees associated with such regulatory action shall be reduced by
73 50 percent and such reduced amount shall be paid to the county or municipality in
74 accordance with such jurisdiction's policies.

75 (6) If the county or municipality determines that the personnel employed or contracted
76 by such county or municipality can provide regulatory action or inspection services
77 within the time frames required under paragraph (4) of this subsection, a convenience fee
78 not to exceed the full amount of the regulatory fees associated with such regulatory action
79 shall be paid to the county or municipality in accordance with such jurisdiction's policies.
80 ~~Upon payment in full of the convenience fees associated with the complete application,~~
81 ~~the applicant may nevertheless choose to retain, at its own expense, a private professional~~
82 ~~provider to provide the required plan review or inspection, subject to the requirements set~~
83 ~~forth in this Code section.~~

84 (7) If the local governing authority states its intent to complete the required plan review
85 within the time prescribed by paragraph (4) of this subsection, or any extension thereof
86 mutually agreed to by the applicant and the governing authority, and the local governing
87 authority fails to complete such plan review in the time prescribed by paragraph (4) of
88 this subsection, or any extension thereof mutually agreed to by the applicant and the
89 governing authority, the local governing authority shall issue the applicant a project
90 initiation permit. The local governing authority shall be allowed to limit the scope of a
91 project initiation permit and limit the areas of the site to which the project initiation
92 permit may apply but shall permit the applicant to begin work on the project, provided
93 that portion of the initial phase of work is compliant with applicable codes, laws, and
94 rules. If the plans submitted for permitting are denied for any deficiency, the time frames
95 and process for resubmittal shall be governed by subparagraphs (C) through (E) of
96 paragraph (13) of this subsection. Any delay in the processing of an application that is

97 attributable to a cause outside the control of the county or municipality that is processing
98 the application or through fault of the applicant shall not count toward days for the
99 purposes of this subsection. This paragraph shall not be applicable if the applicant elects
100 to retain a private professional provider to provide the required plan review.

101 (8) Any plan review or inspection conducted by a private professional provider shall be
102 no less extensive than plan reviews or inspections conducted by county or municipal
103 personnel.

104 (9) The person, firm, or corporation retaining a private professional provider to conduct
105 a plan review or an inspection shall be required to pay to the county or municipality
106 which requires the plan review or inspection the regulatory fees and charges which are
107 required by ~~either~~ paragraph (5) or (6) of this subsection or both, as applicable.

108 (10) A private professional provider performing plan reviews under this subsection shall
109 review plans to determine compliance with all applicable regulatory requirements. Upon
110 determining that the plans reviewed comply with the applicable regulatory requirements,
111 such private professional provider shall prepare an affidavit or affidavits on a form
112 adopted by the Department of Community Affairs certifying under oath that the following
113 is true and correct to the best of such private professional provider's knowledge and belief
114 and in accordance with the applicable professional standard of care:

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

118 (B) The plans comply with all applicable regulatory requirements; and

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

122 (11) All private professional providers providing plan review or inspection services
123 pursuant to this subsection shall secure and maintain insurance coverage for professional

124 liability (errors and omissions) insurance. The limits of such insurance shall be not less
125 than \$1 million per claim and \$1 million in aggregate coverage for any project with a
126 construction cost of \$5 million or less and \$2 million per claim and \$2 million in
127 aggregate coverage for any project with a construction cost of more than \$5 million.
128 Such insurance may be a practice policy or project-specific coverage. If the insurance
129 is a practice policy, it shall contain prior acts coverage for the private professional
130 provider. If the insurance is project-specific, it shall continue in effect for two years
131 following the issuance of the certificate of final completion for the project. A local
132 enforcement agency, local building official, or local government may establish, for
133 private professional providers working within that jurisdiction, a system of registration
134 listing the private professional providers within their stated areas of competency. The
135 permit applicant shall verify compliance with the insurance requirements of this
136 paragraph.

137 (12) The private professional provider shall be empowered to perform any plan review
138 or inspection required by the governing authority of any county or municipality,
139 including, but not limited to, inspections for footings, foundations, concrete slabs,
140 framing, electrical, plumbing, heating ventilation and air conditioning (HVAC), or any
141 and all other inspections necessary or required to determine compliance with all
142 regulatory requirements and for the issuance of a building permit or certificate of
143 occupancy by the governing authority of any county or municipality, provided that the
144 plan review or inspection is within the scope of such private professional provider's area
145 of competency. Nothing in this Code section shall authorize any private professional
146 provider to issue a certificate of occupancy. Only a local governing authority shall be
147 authorized to issue a certificate of occupancy.

148 (13)(A) The permit applicant shall submit a copy of the private professional provider's
149 plan review report to the county or municipality within five days of its completion.
150 Such plan review report shall include at a minimum all of the following:

- 151 (i) The affidavit of the private professional provider required pursuant to this
152 subsection;
- 153 (ii) The applicable fees; and
- 154 (iii) Any documents required by the local official and any other documents necessary
155 to determine that the permit applicant has secured all other governmental approvals
156 required by law.
- 157 (B) No more than 30 days after receipt of both a permit application and the affidavit
158 from the private professional provider required pursuant to this subsection, the local
159 building official shall issue the requested permit or provide written notice to the permit
160 applicant identifying the specific plan features that do not comply with the applicable
161 regulatory requirements, as well as the specific code chapters and sections of such
162 regulatory requirements. If the local building official does not provide a written notice
163 of the plan deficiencies within the prescribed 30 day period, the permit application shall
164 be deemed approved as a matter of law and the permit shall be issued by the local
165 building official on the next business day.
- 166 (C) If the local building official provides a written notice of plan deficiencies to the
167 permit applicant within the prescribed 30 day period, the 30 day period shall be tolled
168 pending resolution of the matter. To resolve the plan deficiencies, the permit applicant
169 may elect to dispute the deficiencies pursuant to this subsection or to submit revisions
170 to correct the deficiencies.
- 171 (D) If the permit applicant submits revisions to address the plan deficiencies previously
172 identified, the local building official shall have the remainder of the tolled 30 day
173 period plus an additional five business days to issue the requested permit or to provide
174 a second written notice to the permit applicant stating which of the previously identified
175 plan features remain in noncompliance with the applicable regulatory requirements,
176 with specific reference to the relevant code chapters and sections of such regulatory
177 requirements. If the local building official does not provide the second written notice

178 within the prescribed time period, the permit shall be issued by the local building
179 official on the next business day. In the event that the revisions required to address the
180 plan deficiencies or any additional revisions submitted by the applicant require that new
181 governmental approvals be obtained, the applicant shall be required to obtain such
182 approvals before a new plan report can be submitted.

183 (E) If the local building official provides a second written notice of plan deficiencies
184 to the permit applicant within the prescribed time period, the permit applicant may elect
185 to dispute the deficiencies pursuant to this subsection or to submit additional revisions
186 to correct the deficiencies. For all revisions submitted after the first revision, the local
187 building official shall have an additional five business days to issue the requested
188 permit or to provide a written notice to the permit applicant stating which of the
189 previously identified plan features remain in noncompliance with the applicable
190 regulatory requirements, with specific reference to the relevant code chapters and
191 sections.

192 (14) Upon submission by the private professional provider of a copy of his or her
193 inspection report to the local governing authority, said local governing authority shall be
194 required to accept the inspection of the private professional provider without the necessity
195 of further inspection or approval by the inspectors or other personnel employed by the
196 local governing authority unless said governing authority has notified the private
197 professional provider, within two business days after the submission of the inspection
198 report, that it finds the report incomplete or the inspection inadequate and has provided
199 the private professional provider with a written description of the deficiencies and
200 specific regulatory requirements that have not been adequately addressed.

201 (15) A local governing authority may provide for the prequalification of private
202 professional providers who may perform plan reviews or inspections pursuant to this
203 subsection. No ordinance implementing prequalification shall become effective until
204 notice of the governing authority's intent to require prequalification and the specific

205 requirements for prequalification have been advertised in the newspaper in which the
206 sheriff's advertisements for that locality are published, and by any other methods such
207 local authority ordinarily utilizes for notification of engineering, architecture, or
208 construction related solicitations. The ordinance implementing prequalification shall
209 provide for evaluation of the qualifications of a private professional provider only on the
210 basis of the private professional provider's expertise with respect to the objectives of this
211 subsection, as demonstrated by the private professional provider's experience, education,
212 and training. Such ordinance may require a private professional provider to hold
213 additional certifications, provided that such certifications are required by ordinance for
214 plan review personnel currently directly employed by such local governing authority.

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

217 (17) Reserved.

218 (18) If the local building official determines that the building construction or plans do
219 not comply with the applicable regulatory requirements, the official may deny the permit
220 or request for a certificate of occupancy or certificate of completion, as appropriate, or
221 may issue a stop-work order for the project or any portion thereof as provided by law,
222 after giving notice to the owner, the architect of record, the engineer of record, or the
223 contractor of record and by posting a copy of the order on the site of the project and
224 opportunity to remedy the violation within the time limits set forth in the notice, if the
225 official determines noncompliance with regulatory requirements, provided that:

226 (A) A local building official shall be available to meet with the private professional
227 provider within two business days to resolve any dispute after issuing a stop-work order
228 or providing notice to the applicant denying a permit or request for a certificate of
229 occupancy or certificate of completion; and

230 (B) If the local building official and the private professional provider are unable to
231 resolve the dispute or meet within the time required by this Code section, the matter

232 shall be referred to the local enforcement agency's board of appeals, if one exists, which
233 shall consider the matter not later than its next scheduled meeting. Any decisions by
234 the local official, if there is no board of appeals, may be appealed to the Department of
235 Community Affairs as provided in this chapter. The Department of Community Affairs
236 shall develop rules and regulations which shall establish reasonable time frames and
237 fees to carry out the provisions of this paragraph.

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

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

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

256 (22) When performing plan reviews or inspection services, a private professional
257 provider is subject to the disciplinary guidelines of the applicable professional licensing
258 board with jurisdiction over such private professional provider's license or certification

259 under Chapters 4 and 15 of Title 43, as applicable. Any complaint processing,
260 investigation, and discipline that arise out of a private professional provider's
261 performance of plan reviews or inspection services shall be conducted by the applicable
262 professional licensing board. Notwithstanding any disciplinary rules of the applicable
263 professional licensing board with jurisdiction over such private professional provider's
264 license or certification under Chapters 4 and 15 of Title 43, any local building official
265 may decline to accept plan reviews or inspection services submitted by any private
266 professional provider who has submitted multiple reports which required revisions due
267 to negligence, noncompliance, or deficiencies.

268 (23) Nothing in this subsection shall apply to inspections exempted in Code
269 Section 8-2-26.1.

270 (24) To the extent that a provision of this Code section conflicts with requirements of
271 federal laws or regulations or impairs a county's or municipality's receipt of federal funds,
272 such provision shall not apply."

273 **SECTION 2.**

274 This Act shall become effective upon its approval by the Governor or upon its becoming law
275 without such approval.

276 **SECTION 3.**

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