

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

AS PASSED SENATE

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

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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~~;

21 (i) Professional engineer who holds a certificate of registration issued under
22 Chapter 15 of Title 43 ~~or a professional~~;

23 (ii) Professional architect who holds a certificate of registration issued under
24 Chapter 4 of Title 43; ~~or~~

25 (iii) Qualified inspector as such term is defined in Code Section 8-2-26.1

26 who is not an employee of or otherwise affiliated with or financially interested in the
27 person, firm, or corporation engaged in the construction project to be reviewed or
28 inspected.

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

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

41 (2) Each county or municipality which imposes regulatory fees or regulatory
42 requirements within its jurisdiction shall establish and make available a schedule of such
43 regulatory fees and regulatory requirements which shall include a list of all
44 documentation related to compliance with such regulatory requirements, including the

45 requirements necessary for submittal of a complete application. The amount of any
46 regulatory fee shall approximate the reasonable cost of the actual regulatory activity
47 performed by the local government and shall be subject to the provisions of paragraph (6)
48 of Code Section 48-13-5.

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

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

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

72 Code section irrespective of whether the county or municipality determines that the
73 personnel employed or contracted by such county or municipality can provide regulatory
74 action or inspection services within the time frames required under paragraph (4) of this
75 subsection. If the applicant elects to utilize the services of a private professional
76 provider, the regulatory fees associated with such regulatory action shall be reduced by
77 50 percent and such reduced amount shall be paid to the county or municipality in
78 accordance with such jurisdiction's policies.

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

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

99 and process for resubmittal shall be governed by subparagraphs (C) through (E) of
100 paragraph (13) of this subsection. Any delay in the processing of an application that is
101 attributable to a cause outside the control of the county or municipality that is processing
102 the application or through fault of the applicant shall not count toward days for the
103 purposes of this subsection. This paragraph shall not be applicable if the applicant elects
104 to retain a private professional provider to provide the required plan review.

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

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

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

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

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

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

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

141 (12) The private professional provider shall be empowered to perform any plan review
142 or inspection required by the governing authority of any county or municipality,
143 including, but not limited to, inspections for footings, foundations, concrete slabs,
144 framing, electrical, plumbing, heating ventilation and air conditioning (HVAC), or any
145 and all other inspections necessary or required to determine compliance with all
146 regulatory requirements and for the issuance of a building permit or certificate of
147 occupancy by the governing authority of any county or municipality, provided that the
148 plan review or inspection is within the scope of such private professional provider's area
149 of competency; and provided, further, that a qualified inspector acting as a private
150 professional provider shall only be empowered to perform a plan review or inspection
151 within an area for which such qualified inspector has been issued a certification, license,
152 or completion of training provided for in paragraph (2) of subsection (a) of Code

153 Section 8-2-26.1. Nothing in this Code section shall authorize any private professional
154 provider to issue a certificate of occupancy. Only a local governing authority shall be
155 authorized to issue a certificate of occupancy.

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

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

161 (ii) The applicable fees; and

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

165 (B) No more than 30 days after receipt of both a permit application and the affidavit
166 from the private professional provider required pursuant to this subsection, the local
167 building official shall issue the requested permit or provide written notice to the permit
168 applicant identifying the specific plan features that do not comply with the applicable
169 regulatory requirements, as well as the specific code chapters and sections of such
170 regulatory requirements. If the local building official does not provide a written notice
171 of the plan deficiencies within the prescribed 30 day period, the permit application shall
172 be deemed approved as a matter of law and the permit shall be issued by the local
173 building official on the next business day.

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

179 (D) If the permit applicant submits revisions to address the plan deficiencies previously
180 identified, the local building official shall have the remainder of the tolled 30 day
181 period plus an additional five business days to issue the requested permit or to provide
182 a second written notice to the permit applicant stating which of the previously identified
183 plan features remain in noncompliance with the applicable regulatory requirements,
184 with specific reference to the relevant code chapters and sections of such regulatory
185 requirements. If the local building official does not provide the second written notice
186 within the prescribed time period, the permit shall be issued by the local building
187 official on the next business day. In the event that the revisions required to address the
188 plan deficiencies or any additional revisions submitted by the applicant require that new
189 governmental approvals be obtained, the applicant shall be required to obtain such
190 approvals before a new plan report can be submitted.

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

200 (14) Upon submission by the private professional provider of a copy of his or her
201 inspection report to the local governing authority, said local governing authority shall be
202 required to accept the inspection of the private professional provider without the necessity
203 of further inspection or approval by the inspectors or other personnel employed by the
204 local governing authority unless said governing authority has notified the private
205 professional provider, within two business days after the submission of the inspection

206 report, that it finds the report incomplete or the inspection inadequate and has provided
207 the private professional provider with a written description of the deficiencies and
208 specific regulatory requirements that have not been adequately addressed.

209 (15) A local governing authority may provide for the prequalification of private
210 professional providers who may perform plan reviews or inspections pursuant to this
211 subsection. No ordinance implementing prequalification shall become effective until
212 notice of the governing authority's intent to require prequalification and the specific
213 requirements for prequalification have been advertised in the newspaper in which the
214 sheriff's advertisements for that locality are published, and by any other methods such
215 local authority ordinarily utilizes for notification of engineering, architecture, or
216 construction related solicitations. The ordinance implementing prequalification shall
217 provide for evaluation of the qualifications of a private professional provider only on the
218 basis of the private professional provider's expertise with respect to the objectives of this
219 subsection, as demonstrated by the private professional provider's experience, education,
220 and training. Such ordinance may require a private professional provider to hold
221 additional certifications, provided that such certifications are required by ordinance for
222 plan review personnel currently directly employed by such local governing authority.

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

225 (17) Reserved.

226 (18) If the local building official determines that the building construction or plans do
227 not comply with the applicable regulatory requirements, the official may deny the permit
228 or request for a certificate of occupancy or certificate of completion, as appropriate, or
229 may issue a stop-work order for the project or any portion thereof as provided by law,
230 after giving notice to the owner, the architect of record, the engineer of record, or the
231 contractor of record and by posting a copy of the order on the site of the project and

232 opportunity to remedy the violation within the time limits set forth in the notice, if the
233 official determines noncompliance with regulatory requirements, provided that:

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

238 (B) If the local building official and the private professional provider are unable to
239 resolve the dispute or meet within the time required by this Code section, the matter
240 shall be referred to the local enforcement agency's board of appeals, if one exists, which
241 shall consider the matter not later than its next scheduled meeting. Any decisions by
242 the local official, if there is no board of appeals, may be appealed to the Department of
243 Community Affairs as provided in this chapter. The Department of Community Affairs
244 shall develop rules and regulations which shall establish reasonable time frames and
245 fees to carry out the provisions of this paragraph.

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

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

255 (21) Nothing in this subsection shall limit the authority of a local code official to issue
256 a stop-work order for a building project or any portion of such project, which may go into
257 effect immediately as provided by law, after giving notice and opportunity to remedy the
258 violation, if the official determines that a condition on the building site constitutes an

259 immediate threat to public safety and welfare. A stop-work order issued for reasons of
260 immediate threat to public safety and welfare shall be appealable to the local enforcement
261 agency's board of appeals, if one exists, in the manner provided by applicable law. Any
262 decisions by the local official, if there is no board of appeals, may be appealed to the
263 Department of Community Affairs as provided in this chapter.

264 (22) When performing plan reviews or inspection services, a private professional
265 provider is subject to the disciplinary guidelines of the applicable professional licensing
266 board with jurisdiction over such private professional provider's license or certification
267 under Chapters 4 and 15 of Title 43, as applicable. Any complaint processing,
268 investigation, and discipline that arise out of a private professional provider's
269 performance of plan reviews or inspection services shall be conducted by the applicable
270 professional licensing board. Notwithstanding any disciplinary rules of the applicable
271 professional licensing board with jurisdiction over such private professional provider's
272 license or certification under Chapters 4 and 15 of Title 43, any local building official
273 may decline to accept plan reviews or inspection services submitted by any private
274 professional provider who has submitted multiple reports which required revisions due
275 to negligence, noncompliance, or deficiencies.

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

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

281 **SECTION 2.**

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

284

SECTION 3.

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