

The House Committee on Regulated Industries offers the following substitute to HB 1385:

A BILL TO BE ENTITLED

AN ACT

1 To amend Titles 8 and 25 of the Official Code of Georgia Annotated, relating to buildings  
2 and housing and fire protection and safety, respectively, so as to improve government  
3 efficiency by updating provisions of the office of the Safety Fire Commissioner; to provide  
4 for procedures for rules promulgation, hearings, and appeals; to provide for the appointment  
5 of a deputy commissioner of safety fire; to provide for such position's duties and powers; to  
6 provide for the payment of expenses of certain employees; to provide for subpoena power;  
7 to establish an appeals board to review certain rulings on building permits; to provide for  
8 membership and powers of such board; to provide for review of all actions and  
9 documentation of deputized personnel; to authorize evacuation orders; to provide for  
10 petitions for a rule nisi; to provide for final authority; to provide for certain powers in  
11 suspected arson investigations; to provide for immediate reporting of fatalities caused by fire  
12 or smoke; to provide for suspension or revocation of a license; to provide for an increased  
13 fee for failing to maintain a smoke detector; to provide for an increased reinspection fee; to  
14 amend Article 2 of Chapter 9 of Title 15 of the Official Code of Georgia Annotated, relating  
15 to jurisdiction, power, and duties regarding probate courts, so as to provide for probate court  
16 jurisdiction over certain misdemeanors; to provide for an effective date; to provide for related  
17 matters; to repeal conflicting laws; and for other purposes.

H. B. 1385 (SUB)

- 1 -

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **PART I**

20 *Fire protection and safety*

21 **SECTION 1-1.**

22 Title 25 of the Official Code of Georgia Annotated, relating to fire protection and safety, is  
 23 amended in Chapter 2, relating to regulation of fire and other hazards to persons and property  
 24 generally, by revising Code Section 25-2-5, relating to appointment, qualifications, and  
 25 salary of state fire marshal, as follows:

26 "25-2-5.

27 The Commissioner shall appoint a state fire marshal and a deputy commissioner of safety  
 28 fire. Qualifications for appointment ~~as state fire marshal~~ of such positions shall be previous  
 29 training and experience in endeavors similar to those prescribed in this chapter. The  
 30 Commissioner shall fix the salary of ~~the state fire marshal~~ such positions."

31 **SECTION 1-2.**

32 Said title is further amended in said chapter by revising Code Section 25-2-6, relating to state  
 33 fire marshal as head of Safety Fire Division, as follows:

34 "25-2-6.

35 The Safety Fire Division of the office of the Commissioner of Insurance shall be headed  
 36 by the ~~state fire marshal~~ deputy commissioner of safety fire appointed by the  
 37 Commissioner."

38 **SECTION 1-3.**

39 Said title is further amended in said chapter by revising Code Section 25-2-7, relating to  
 40 appointment process for deputy state fire marshal and other personnel, as follows:

41 "25-2-7.

42 The deputy commissioner of safety fire, in coordination with the state fire marshal, subject  
43 to the approval of the Commissioner, shall appoint a deputy state fire marshal and  
44 administrative fire safety specialists and shall employ such office personnel as may be  
45 required to carry out this chapter. The deputy state fire marshal and administrative fire  
46 safety specialists shall be chosen by virtue of their previous training and experience in the  
47 particular duties which shall be assigned to them. They shall take an oath to perform  
48 faithfully the duties of their office."

49 **SECTION 1-4.**

50 Said title is further amended in said chapter by revising Code Section 25-2-8, relating to  
51 payment of expenses of employees in state fire marshal's office, as follows:

52 "25-2-8.

53 All state employees connected with the ~~state fire marshal's office~~ Safety Fire Division of  
54 the office of the Commissioner of Insurance shall be allowed subsistence, lodging, and  
55 other expenses in connection with the execution of their duties when away from their  
56 headquarters. Transportation for such employees shall be paid at the mileage rate fixed by  
57 law for other state employees."

58 **SECTION 1-5.**

59 Said title is further amended in said chapter by revising subsection (c) of Code  
60 Section 25-2-9, relating to authority of state fire marshal and employees to investigate and  
61 arrest, as follows:

62 "(c) Personnel employed and authorized by the state fire marshal shall have the power to  
63 make arrests for criminal violations established as a result of investigations. Such  
64 personnel shall hold certification as a peace officer from the Georgia Peace Officer  
65 Standards and Training Council and shall have the power to execute arrest warrants and

66 search warrants for criminal violations, to serve subpoenas issued for examination,  
 67 investigation, and trial of all offenses determined by their investigations, and to arrest, upon  
 68 probable cause and without warrant, any person found violating any of the provisions of  
 69 applicable criminal laws. Authorized personnel empowered to make arrests pursuant to  
 70 this Code section shall be empowered to carry firearms as authorized by the state fire  
 71 marshal in the performance of their duties. It shall be unlawful for any person to resist an  
 72 arrest authorized by this Code section or to interfere in any manner, including abetting or  
 73 assisting such resistance or interference, with personnel employed by the state fire marshal  
 74 in the duties imposed upon such personnel by law."

#### 75 SECTION 1-6.

76 Said title is further amended in said chapter by revising Code Section 25-2-10, relating to  
 77 appeal process and requirement for surety bond, as follows:

78 "25-2-10.

79 (a) Should any person, firm, corporation, or public entity be dissatisfied with any ruling  
 80 or decision of the state fire marshal, the right is granted to appeal within ten days to the  
 81 Commissioner.

82 (b) If ~~the~~ any person, firm, corporation, or public entity is ~~dissatisfied with the decision of~~  
 83 ~~the Commissioner,~~ appeal is authorized to the superior court within 30 days aggrieved or  
 84 adversely affected by a final order of the Commissioner, the form of proceeding for judicial  
 85 review shall be by petition for review in the superior court in the manner provided under  
 86 Chapter 13 of Title 50.

87 (c) In the event of such ~~appeal~~ petition for review as provided in subsection (b) of this  
 88 Code section, the person, firm, corporation, or public entity shall give a surety bond which  
 89 will be conditioned upon compliance with the order and direction of ~~the state fire marshal~~  
 90 ~~or the Commissioner or both.~~ The amount of bond shall be fixed by the Commissioner in

91 such amount as will reasonably cover the order issued by the Commissioner ~~or the state fire~~  
92 ~~marshal or both."~~

93 **SECTION 1-7.**

94 Said title is further amended in said chapter by revising Code Section 25-2-11, which is  
95 designated as reserved, as follows:

96 "25-2-11.

97 (a) The purpose of this Code section is to provide a mechanism for any party aggrieved  
98 or adversely affected by a final ruling of a local governing authority on a building permit  
99 based on an interpretation or variance of the state minimum fire safety standards to appeal  
100 such ruling to an appeals board. Such party shall be authorized to submit an appeal to the  
101 Commissioner, and such appeal shall go before an appeals board within five business days  
102 of submission; provided, however, that the appeals board shall be authorized to delay such  
103 hearing for good cause.

104 (b) There is established an appeals board consisting of the state fire marshal, who shall  
105 serve as chairperson of such board, and six members appointed by the Commissioner as  
106 follows:

107 (1) One member from a county or municipal governing authority as described in  
108 paragraph (1) of subsection (a) of Code Section 25-2-12;

109 (2) One member from a municipal governing authority as described in subsection (b) of  
110 Code Section 25-2-12;

111 (3) One residential contractor licensed under Chapter 41 of Title 43;

112 (4) One licensed commercial general contractor licensed under Chapter 41 of Title 43;  
113 and

114 (5) Two additional appointees to be determined by the Commissioner.

115 (c) The term of each appointed member of the appeals board shall be for one year. Each  
116 member shall serve until a successor is appointed and qualified. Members of the appeals

117 board shall serve as such without compensation but shall receive the same expense  
 118 allowance as that received by members of the General Assembly and the same mileage  
 119 allowance for the use of a personal car or a travel allowance of actual transportation cost  
 120 if traveling by public carrier as that received by all other state officials and employees.  
 121 (d) The Safety Fire Division of the office of the Commissioner of Insurance shall provide  
 122 reasonable administrative support to the appeals board.  
 123 (e) The appeals board shall be authorized to uphold, modify, and reverse in whole or in  
 124 part a local authority's final ruling. The appeals board shall be authorized to overrule a  
 125 local authority's order to cease and desist, stop work, or similar order when such orders are  
 126 found not to have presented an imminent danger to life and safety of the occupants of the  
 127 building or structure in question.  
 128 (f) The Commissioner shall promulgate rules and regulations necessary to implement the  
 129 provisions of this Code section. Reserved."

130 **SECTION 1-8.**

131 Said title is further amended in said chapter by revising subsection (e) of Code  
 132 Section 25-2-12.1, relating to deputizing of local fire marshals, deputy local fire marshals,  
 133 and state inspectors as state officers, as follows:

134 "(e) All deputized local fire marshals, deputy local fire marshals, and state inspectors shall  
 135 submit monthly reports of their activities to the state fire marshal and shall comply with the  
 136 administrative and operational procedures of the ~~state fire marshal's office~~ Safety Fire  
 137 Division of the office of the Commissioner of Insurance. The state fire marshal or the  
 138 Commissioner's designee shall be authorized to review all actions and documentation of  
 139 deputized personnel at any time to assure compliance with administrative and operational  
 140 procedures. The state fire marshal or the Commissioner's designee shall be authorized to  
 141 reverse, change, mitigate, or assume direction of any action of deputized personnel. Any  
 142 deputized local fire marshal, deputy local fire marshal, or state inspector who is found by

143 the state fire marshal to be negligent in performing his or her appointed duties or in  
144 fulfilling his or her responsibilities shall be removed from his or her position as a state  
145 officer."

146 **SECTION 1-9.**

147 Said title is further amended in said chapter by adding a new subsection to Code Section  
148 25-2-14.2, relating to authority of state fire marshal to deny permit or request for certificate  
149 or to issue stop-work order, to read as follows:

150 "(c) The Commissioner or his or her designee shall be authorized to issue an immediate  
151 evacuation order of all persons from any building or structure, whether or not building  
152 construction is complete or such building or structure has been issued a certificate of  
153 occupancy, when such building or structure or any condition or cause presents an imminent  
154 life safety hazard of any type. Such order shall remain in effect until the Commissioner or  
155 his or her designee is satisfied such hazard is fully mitigated."

156 **SECTION 1-10.**

157 Said title is further amended in said chapter by revising Code Section 25-2-23, relating to  
158 issuance of notice to correct unsafe conditions, as follows:

159 "25-2-23.

160 (a) When any of the officers listed in Code Section 25-2-22 finds any building or ~~other~~  
161 structure which, for want of repair or by reason of age or dilapidated condition or any other  
162 cause is especially liable to fire hazard or which is so situated as to endanger other property  
163 or the safety of the public, or when, in or around any building or structure, such officer  
164 finds combustible or explosive matter, inflammables, or other conditions dangerous to the  
165 safety of the building or structure, notice may be given to the owner or agent and occupant  
166 of the building or structure to correct such unsafe conditions as may be found.

167 (b) The Commissioner or his or her designee shall be authorized to issue an immediate  
168 evacuation order of all persons from any building or structure, whether or not such building  
169 or structure has been issued a certificate of occupancy, when such building or structure or  
170 any condition or cause presents an imminent life safety hazard of any type. Such order  
171 shall remain in effect until the Commissioner or his or her designee is satisfied such hazard  
172 is fully mitigated."

173 **SECTION 1-11.**

174 Said title is further amended in said chapter by revising Code Section 25-2-24, relating to  
175 filing of petition for court order compelling compliance with notice, as follows:

176 "25-2-24.

177 (a) If any owner, agent, or occupant fails to comply with the notice prescribed in provided  
178 for under subsection (a) of Code Section 25-2-23 within the time specified in the notice,  
179 the state fire marshal or his or her delegated officials, with the approval of the  
180 Commissioner, may petition the court for a rule nisi to show cause why an order should not  
181 be issued by the court that the same be removed or remedied. Such court order shall  
182 forthwith be complied with by the owner or occupant of the premises or building within  
183 such time as may be fixed in the court order.

184 (b) Any appeal of an order issued by the Commissioner or his or her designee pursuant to  
185 subsection (b) of Code Section 25-2-23 shall proceed as provided for under Code  
186 Section 25-2-10."

187 **SECTION 1-12.**

188 Said title is further amended in said chapter by revising Code Section 25-2-26, relating to  
189 enforcement of Code Sections 25-2-22 through 25-2-25 by court order, as follows:

190 "25-2-26.

191 In accordance with Code Section 25-2-3, the Commissioner shall be authorized to  
192 implement and enforce the provisions of this title and the rules and regulations made  
193 pursuant to this title, except as provided for in Code Section 25-2-12, subject to a petition  
194 for judicial review to superior court as provided for in Code Section 25-2-10. Code  
195 Sections 25-2-22 through 25-2-25 shall be construed so that the final authority for ordering  
196 the carrying out and enforcement of such Code sections shall be by order of the court and  
197 not by the Commissioner or his delegated authority."

198 **SECTION 1-13.**

199 Said title is further amended in said chapter by revising Code Section 25-2-32.1, relating to  
200 reports to Safety Fire Division of serious burn injuries, as follows:

201 "25-2-32.1.

202 (a) Every case of a burn injury or wound where the victim sustained second-degree or  
203 third-degree burns to 5 percent or more of the body or any burns to the upper respiratory  
204 tract or laryngeal edema due to the inhalation of superheated air, and every case of a burn  
205 injury or wound which is likely to or may result in death, shall be reported at once to the  
206 Safety Fire Division of the office of the Commissioner of Insurance. The Safety Fire  
207 Division shall accept the report and notify the proper investigatory agency as may be  
208 appropriate. A written report shall be provided to the Safety Fire Division within 72 hours.  
209 The report shall be made by the physician attending or treating the case or by the manager,  
210 superintendent, or other person in charge whenever such case is treated in a hospital  
211 sanitarium, institution, or other medical facility.

212 (b) All fatalities allegedly resulting from fire or smoke shall be reported immediately to  
213 the Safety Fire Division by the coroner or medical examiner of the county where such  
214 fatalities occurred. No coroner or medical examiner shall move or cause to be moved a

215 decendent's body until authorized by personnel employed or authorized by the state fire  
216 marshal or the Commissioner or his or her designee."

217 **SECTION 1-14.**

218 Said title is further amended in said chapter by revising Code Section 25-2-38, relating to  
219 criminal penalties for violations of chapter and rules, regulations, or orders of Commissioner,  
220 as follows:

221 "25-2-38.

222 (a) Any person, firm, or corporation violating any provision of this chapter or failing or  
223 refusing to comply with any regulation promulgated under this chapter shall be guilty of  
224 a misdemeanor and shall be punished by confinement for not more than 12 months, by a  
225 fine of not more than \$1,000.00 per violation, or both.

226 (b) A law enforcement officer shall be authorized to issue a citation, summons, or  
227 accusation or to effect a custodial arrest in addition to the issuance of a citation, summons,  
228 or accusation. The citation, summons, or accusation shall enumerate the specific charges  
229 against the person and either the date upon which the person is to appear and answer the  
230 charges or a notation that the person will be later notified of the date upon which the person  
231 is to appear and answer the charges.

232 (c) Any probate court, state court, or other court of competent jurisdiction shall be  
233 authorized to hear and adjudicate misdemeanor violations of this title."

234 **SECTION 1-15.**

235 Said title is further amended in said chapter by revising paragraph (2) of subsection (f) of  
236 Code Section 25-2-40, relating to smoke detectors required in new dwellings and dwelling  
237 units and exceptions, as follows:

238 "(2) Any occupant who fails to maintain a smoke detector in a dwelling, dwelling unit,  
239 or other facility, other than a nursing home, listed in subsection (a) of this Code section

240 in good working order as required in this Code section shall be subject to a maximum fine  
 241 of ~~\$25.00~~ \$100.00 per detector, provided that a warning shall be issued for a first  
 242 violation."

243 **SECTION 1-16.**

244 Article 2 of Chapter 9 of Title 15 of the Official Code of Georgia Annotated, relating to  
 245 jurisdiction, power, and duties regarding probate courts, is amended by adding a new Code  
 246 section to read as follows:

247 "15-9-30.10.

248 (a) Subject to the provisions of subsection (b) of this Code section, in addition to any other  
 249 jurisdiction vested in the probate courts, such courts shall have the right and power to  
 250 conduct trials, receive pleas of guilty, and impose sentences upon defendants for violating  
 251 any law specified in Title 25 which is punishable as a misdemeanor. Such jurisdiction shall  
 252 be concurrent with other courts having jurisdiction over such violations.

253 (b) A probate court shall not have the power to dispose of misdemeanor cases as provided  
 254 in subsection (a) of this Code section unless the defendant waives in writing a trial by jury.  
 255 If the defendant does not waive a trial by jury, the defendant shall notify the court and, if  
 256 reasonable cause exists, the defendant shall be immediately bound over to a court in the  
 257 county having jurisdiction to try the offense wherein a jury may be impaneled."

258 **PART II**

259 *Buildings and housing*

260 **SECTION 2-1.**

261 Title 8 of the Official Code of Georgia Annotated, relating to buildings and housing, is  
 262 amended by revising subsection (a) of Code Section 8-2-135.1, relating to manufacturing and  
 263 monitoring inspection fees, as follows:

264 "(a) During such time as the Commissioner's office is acting as the primary inspection  
265 agency pursuant to Section 623 of the National Manufactured Housing Construction and  
266 Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq., or the regulations issued  
267 thereunder, every manufacturer who manufactures manufactured homes in Georgia shall  
268 pay to the Commissioner a manufacturing inspection fee for each manufactured home  
269 manufactured in Georgia, irrespective of whether the manufactured home is offered for sale  
270 in this state. This manufacturing inspection fee shall be \$30.00 for each certification label,  
271 as defined in Section 623 of the National Manufactured Housing Construction and Safety  
272 Standards Act of 1974, 42 U.S.C. Section 5401, et seq. For any reinspection, a ~~\$15.00~~  
273 \$150.00 additional fee shall be charged."

274

**PART III**

275

*Effective date and repealer*

276

**SECTION 3-1.**

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

279

**SECTION 3-2.**

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