

House Bill 812

By: Representatives Cheokas of the 151st, Rhodes of the 124th, Williams of the 148th, Jasperse of the 11th, Crowe of the 118th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 1 of Chapter 2 of Title 8 of the Official Code of Georgia
2 Annotated, relating to state building, plumbing, and electrical codes, so as to revise the
3 process by which a local governing body may propose amendments to state minimum
4 standard codes; to require the approval of the Department of Community Affairs for
5 amendments to such codes; to amend Chapter 7 of Title 12 of the Official Code of Georgia
6 Annotated, relating to control of soil erosion and sedimentation, so as to revise provisions
7 regarding denial or nonacceptance of permits; to require local issuing authorities to provide
8 rejected permit applicants with a written list of reasons for denial within specified time
9 frames; to provide for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Part 2 of Article 1 of Chapter 2 of Title 8 of the Official Code of Georgia Annotated, relating
13 to state building, plumbing, and electrical codes, is amended by revising subsection (c) of
14 Code Section 8-2-25, relating to application of minimum standard codes, local adoption and
15 requirements, and exemptions, as follows:

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16 "(c)(1) In the event that the governing authority of any municipality or county finds that
17 the state minimum standard codes do not meet its needs, the local government may
18 provide requirements not less stringent than those specified in the state minimum
19 standard codes when such requirements are based on local climatic, geologic,
20 topographic, or public safety factors; provided, however, that there is a determination by
21 the local governing body of a need to amend the requirements of the state minimum
22 standard code based upon a demonstration by the local governing body that local
23 conditions justify such requirements not less stringent than those specified in the state
24 minimum standard codes for the protection of life and property. All such proposed
25 amendments shall be submitted by the local governing body to the department 60 days
26 prior to the adoption of such amendment. Concurrent with the submission of the
27 proposed amendment to the department, the local governing body shall submit in writing
28 the legislative findings of the governing body and such other documentation as the local
29 governing body deems helpful in justifying the proposed amendment. The department
30 shall review and comment on a proposed amendment. Such comment shall be in writing
31 and shall be sent to the submitting local government with a ~~recommendation~~ notice that:

32 (A) The ~~That the~~ proposed local amendment ~~should~~ shall not be adopted, due to the
33 lack of sufficient evidence to show that such proposed local amendment would be as
34 stringent as the state minimum standard codes and the lack of sufficient evidence to
35 show that local climatic, geologic, topographic, or public safety factors require such an
36 amendment; or

37 (B) The ~~That the~~ proposed local amendment ~~should~~ may be adopted, due to a
38 preponderance of evidence that such proposed local amendment would be as stringent
39 as the state minimum standard codes and a preponderance of evidence that the local
40 climatic, geologic, topographic, or public safety factors require such an amendment; ~~or~~

41 (C) ~~That the department has no recommendation regarding the adoption or disapproval~~
42 ~~of the proposed local amendments, due to the lack of sufficient evidence to show that~~

43 ~~such proposed local amendment would or would not be as stringent as the state~~
44 ~~minimum standard codes and the lack of sufficient evidence to show that local climatic,~~
45 ~~geologic, topographic, or public safety factors require or do not require such an~~
46 ~~amendment.~~

47 (2) The department shall have 60 days after receipt of a proposed local amendment to
48 review the proposed amendment and make a recommendation as set forth in
49 paragraph (1) of this subsection. ~~In the event that the department fails to respond within~~
50 ~~the time allotted, the local governing body may adopt the proposed local amendment.~~

51 ~~(3) In the event that the department recommends against the adoption of the proposed~~
52 ~~local amendment, a local governing body shall specifically vote to reject the department's~~
53 ~~recommendations before any local amendment may be adopted.~~

54 ~~(4)~~(3) No local amendment shall become effective until the local governing body has
55 caused a copy of the adopted amendment to be filed with the department. A copy of an
56 amendment shall be deemed to have been filed with the department when it has been
57 ~~placed in the United States mail~~ sent by certified mail or statutory overnight delivery,
58 return receipt requested.

59 ~~(5) Nothing in this subsection shall be construed so as to require approval by the~~
60 ~~department before a local amendment shall become effective.~~

61 ~~(6)~~(4) The department shall maintain a file of all amendments to the state minimum
62 standard codes adopted by the various municipalities and counties in ~~the~~ this state, which
63 information shall be made available to the public upon request. The department may
64 charge reasonable fees for copies of such information. An index of such amendments
65 shall be included in each new edition of a state minimum standard code.

66 ~~(7)~~(5) At the time of issuing a building permit, the issuing county or municipality shall
67 notify the holder of the permit of any local amendments to the state minimum standard
68 codes which are in effect for that county or municipality and that any such amendments
69 are on file with the department. A county or municipality may satisfy this notice

70 requirement by posting or providing a summary of the topic of such local amendment or
71 amendments and the address and telephone number of the department."

72 **SECTION 2.**

73 Chapter 7 of Title 12 of the Official Code of Georgia Annotated, relating to control of soil
74 erosion and sedimentation, is amended by revising Code Section 12-7-9, relating to
75 applications for permits, erosion and sediment control plans and data, and time for issuance
76 or denial, as follows:

77 "12-7-9.

78 (a) Applications for permits shall be submitted in accordance with this chapter and the
79 rules and regulations, ordinances, and resolutions adopted pursuant to this chapter. Such
80 applications shall be accompanied by the applicant's erosion and sediment control plans
81 and by such supportive data as will affirmatively demonstrate that the land-disturbing
82 activity proposed will be carried out in such a manner that the minimum requirements set
83 forth in Code Section 12-7-6 shall be met. All applications shall contain a certification
84 stating that the plan preparer or ~~the designee thereof~~ his or her designee visited the site
85 prior to creation of the plan or that such a visit was not required in accordance with rules
86 and regulations established by the board.

87 (b) No permit shall be issued to any applicant unless the local issuing authority
88 affirmatively determines that the plan embracing such activities meets the requirements of
89 Code Section 12-7-6. All applicable fees shall be paid prior to issuance of the land
90 disturbance permit by the local issuing authority.

91 (c) Permits shall be issued or denied as soon as practicable after the application ~~therefor~~
92 has been filed with the local issuing authority, but in any event not later than 45 days
93 thereafter after such filing. In the event that a permit has been denied or deemed not
94 accepted and the applicant thereafter resubmits the application in modified form to address
95 deficiencies identified in the stated reasons for denial or nonacceptance pursuant to

96 subsection (a) of Code Section 12-7-11, then the local issuing authority shall cause the
97 permit to be issued or denied as soon as practicable after such resubmission, but in any
98 event not later than 14 days after such resubmission.
99 (d) If a local issuing authority requires compliance with additional regulatory items by the
100 applicant beyond erosion and sediment control, including, but not limited to, storm-water
101 management, zoning, land use, or utility approvals, all such requirements shall be subject
102 to the review time frames imposed in subsection (c) of this Code section."

103 **SECTION 3.**

104 Said chapter is further amended by revising Code Section 12-7-11, relating to statement of
105 reasons for denial of permit required, conditions for approval, and suspension, revocation,
106 or modification of permit, as follows:

107 "12-7-11.

108 (a) Within the time frames specified by Code Section 12-7-9, the local issuing authority
109 shall issue or deny the permit. The local issuing authority, upon denial of a permit, shall
110 state its reasons for the denial, setting forth specifically ~~wherein~~ where such application is
111 found to be deficient. No local issuing authority shall deny or deem not accepted a permit
112 for any reason that is not an authorized reason for denial or nonacceptance under local,
113 state, or federal law with which the application or plans do not comply. Concurrently with
114 denial or nonacceptance, the local issuing authority shall provide the applicant with a
115 written list of the reasons for such denial or nonacceptance and a citation to the local, state,
116 or federal law supporting each reason for the denial or nonacceptance. Should the
117 applicant make material additions to the resubmitted application that are unrelated to the
118 cited reasons for the denial or nonacceptance of the original application, the local issuing
119 authority may also address such additions in reviewing the resubmitted application. Any
120 land-disturbing activity permitted under this chapter shall be carried out in accordance with
121 this chapter and the ordinance, resolution, or rules and regulations adopted and

122 promulgated pursuant to this chapter. The local issuing authority shall specify on the
123 permit the conditions under which the activity may be undertaken.

124 (b) The permit may be suspended, revoked, or modified by the local issuing authority, as
125 to all or any portion of the land affected by the plan, upon a finding that the holder or his
126 or her successor in title is not in compliance with the approved erosion and sediment
127 control plan or that the holder or his or her successor in title is in violation of this chapter
128 or any ordinance, resolution, rule, or regulation adopted or promulgated pursuant to this
129 chapter. A holder of a permit shall notify any successor in title to him or her as to all or
130 any portion of the land affected by the approved plan of the conditions contained in the
131 permit."

132 **SECTION 4.**

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