

The Senate Committee on State and Local Governmental Operations-General offered the following substitute to SB 437:

MOOT

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 provide for
3 building inspection procedures for residential properties; to provide for schedules of certain
4 fees; to provide for certain notifications; to provide for acknowledgment of an applicant's use
5 of a private professional provider to conduct a plan review or inspection and that such review
6 or inspection may proceed regardless of whether the local governing authority had performed
7 its own plan review or inspection; to permit in person or virtual plan reviews or inspections;
8 to provide for a shorter period for local governing authorities to approve applications; to
9 prohibit local governing authorities from charging convenience fees; to provide for
10 procedures to use a private professional provider for plan review or inspection; to provide
11 for an acknowledgment; to provide for plan review; to authorize prequalification; to provide
12 for prequalification procedures; to authorize permit denial; to provide procedures for permit
13 denial; to provide for immunity; to prohibit more stringent requirements; to provide for
14 certain stop orders; to provide for complaint procedures; to provide for definitions; to provide
15 for related matters; to provide for an effective date and applicability; to repeal conflicting
16 laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18

SECTION 1.

19 Part 2 of Article 1 of Chapter 2 of Title 8 of the Official Code of Georgia Annotated, relating
20 to state building, plumbing, and electrical codes, is amended by adding a new subsection to
21 Code Section 8-2-26, relating to local enforcement, inspectors, and building permits, to read
22 as follows:

23 "(h)(1) Notwithstanding subsection (g) of this Code section, this subsection shall apply
24 to residential structures, including, but not limited to, single-family residences,
25 townhomes, and condominiums three stories or less.

26 (2) As used in this subsection, the term:

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

31 (B) 'Private professional provider' means a:

32 (i) Professional engineer who holds a certificate of registration issued under
33 Chapter 15 of Title 43;

34 (ii) Professional architect who holds a certificate of registration issued under
35 Chapter 4 of Title 43; or

36 (iii) Qualified inspector as such term is defined in Code Section 8-2-26.1
37 who is not an employee of or otherwise affiliated with or financially interested in the
38 person, firm, or corporation engaged in the construction project to be reviewed or
39 inspected.

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

44 (D) 'Regulatory requirements' means the requirements determined by a county or
45 municipality to be necessary for approval of plans, permits, or applications under this
46 chapter; provided, however, that, with respect to any application, such requirements
47 shall include the state minimum standard codes most recently adopted by the
48 Department of Community Affairs and any locally adopted ordinances and amendments
49 to such codes; applicable zoning ordinances and conditions; design standards; and other
50 state and local laws, regulations, and ordinances applicable to the application in
51 question.

52 (3) Each county or municipality which imposes regulatory fees or regulatory
53 requirements within its jurisdiction shall establish and make available a schedule of such
54 regulatory fees and regulatory requirements which shall include a list of all
55 documentation related to compliance with such regulatory requirements, including the
56 requirements necessary for submittal of a complete application. The amount of any
57 regulatory fee shall approximate the reasonable cost of the actual regulatory activity
58 performed by the local government and shall be subject to the provisions of paragraph (6)
59 of Code Section 48-13-5.

60 (4) No later than five business days after receipt of any application related to regulatory
61 requirements, a local building official of a county or municipality shall notify each
62 applicant as to whether the submitted documents meet the requirements of a complete
63 application and shall acknowledge whether an applicant retained a private professional
64 provider to provide the required plan review or inspection, allowing the applicant to
65 proceed with the plan review or inspection irrespective of whether the county or
66 municipality has conducted a plan review or inspection. Except as otherwise provided
67 in this paragraph, time spent by a county or municipality determining whether an
68 application is complete shall count toward the total 15 business days for plan review or
69 inspection. If a local building official determines that the application is not complete, the
70 applicant shall be provided written notice identifying the items that are not complete.

71 The 15 business-day time period is tolled when the application is rejected as incomplete.
72 If within 15 business days after the county or municipality has provided notice that the
73 application is incomplete the permit applicant submits revisions to address the identified
74 deficiencies, the local building official shall have an additional five business days to
75 review the application for completeness.

76 (5) At the time a county or municipality notifies the applicant that a complete application
77 has been accepted, it shall also notify such applicant as to whether the personnel
78 employed or contracted by such county or municipality will be able to provide regulatory
79 action within 15 business days for plan review or provide inspection services within two
80 business days of receiving a valid written request for inspection.

81 (6) The applicant shall have the option of retaining, at its own expense, a private
82 professional provider to provide the required plan review or inspection, conducted in
83 person, or virtually on any punch list reinspection consisting of ten or less items, in
84 accordance with the provisions of this Code section irrespective of whether the county
85 or municipality determines that the personnel employed or contracted by such county or
86 municipality can provide regulatory action or inspection services within the time frames
87 required under paragraph (5) of this subsection. If the applicant elects to utilize the
88 services of a private professional provider, the regulatory fees associated with such
89 regulatory action shall be reduced by 50 percent and such reduced amount shall be paid
90 to the county or municipality in accordance with such jurisdiction's policies. The local
91 governing authority shall not charge any convenience fees when an applicant retains a
92 private professional provider to provide the required plan review or inspection.

93 (7)(A) An applicant using a private professional provider pursuant to paragraph (6) of
94 this subsection shall notify the local governing authority in writing at the time of the
95 permit application, or by 2:00 P.M. two business days before the first scheduled
96 inspection by the local governing authority that a private professional provider has been
97 contracted to perform the required plan review or inspection. This notice shall include:

- 98 (i) The services to be performed by the private professional provider;
99 (ii) The name, firm, address, telephone number, and email address of the private
100 professional provider performing such services;
101 (iii) A directory of licensed individuals who are eligible to perform such services;
102 (iv) The private professional provider's professional licenses or certification numbers;
103 (v) A certificate demonstrating professional liability insurance coverage in place for
104 the private professional provider's firm, the private professional provider, and any
105 duly authorized representative in the amounts required by this subsection; and
106 (vi) A written acknowledgment from the applicant in substantially the following
107 form:

108 'I have elected to use one or more private professional providers to provide building
109 code plans review and/or inspection services on the building or structure that is the
110 subject of the enclosed permit application, as authorized by O.C.G.A.
111 Section 8-2-26(g). I understand that the county or municipality may not review the
112 plans submitted or perform the required building inspection to determine
113 compliance with the applicable building codes, except to the extent specified in said
114 codes. Instead the plans review and/or required building inspections will be
115 performed by the licensed or certified personnel identified in the application. The
116 law requires minimum insurance requirements for such personnel. By executing
117 this form I acknowledge that I have made an inquiry regarding the competence of
118 the licensed or certified personnel and the level of their insurance and am satisfied
119 my interests are adequately protected. I agree to indemnify, defend, and hold
120 harmless the county and/or municipality, and their building code enforcement
121 personnel from any and all claims arising from my use of these licensed or certified
122 personnel to perform building code inspection services with respect to the building
123 or structure that is the subject of the enclosed permit application.'

124 (vii) The commissioner shall promulgate a notice form on the department website
125 that meets the requirements of divisions (i) through (vi) of this subparagraph.

126 (B) If the applicant makes any changes to the listed private professional providers or
127 services to be provided by such private professional providers, the applicant shall,
128 within one business day after any change or within two business days of the next
129 scheduled inspection, update the notice to reflect such changes.

130 (C) A change of private professional provider named in the permit application does not
131 require a revision of the permit, and the local governing authority shall not charge a fee
132 for making such change.

133 (8) If the local governing authority states its intent to complete the required plan review
134 within the time prescribed by paragraph (5) of this subsection, or any extension thereof
135 mutually agreed to by the applicant and the governing authority, and the local governing
136 authority fails to complete such plan review in the time prescribed by paragraph (5) of
137 this subsection, or any extension thereof mutually agreed to by the applicant and the
138 governing authority, the local governing authority shall issue the applicant a project
139 initiation permit. The local governing authority shall be allowed to limit the scope of a
140 project initiation permit and limit the areas of the site to which the project initiation
141 permit may apply but shall permit the applicant to begin work on the project, provided
142 that portion of the initial phase of work is compliant with applicable codes, laws, and
143 rules. If the plans submitted for permitting are denied for any deficiency, the time frames
144 and process for resubmittal shall be governed by subparagraphs (C) through (E) of
145 paragraph (14) of this subsection. Any delay in the processing of an application that is
146 attributable to a cause outside the control of the county or municipality that is processing
147 the application or through fault of the applicant shall not count toward days for the
148 purposes of this subsection. This paragraph shall not be applicable if the applicant elects
149 to retain a private professional provider to provide the required plan review.

150 (9) Any plan review or inspection conducted either in person or virtually by a private
151 professional provider shall be no less extensive than plan reviews or inspections
152 conducted by county or municipal personnel.

153 (10) The person, firm, or corporation retaining a private professional provider to conduct
154 a plan review or an inspection shall be required to pay to the county or municipality
155 which requires the plan review or inspection the regulatory fees and charges which are
156 required by paragraph (6) of this subsection.

157 (11) A private professional provider performing plan reviews under this subsection shall
158 review plans to determine compliance with all applicable regulatory requirements. Upon
159 determining that the plans reviewed comply with the applicable regulatory requirements,
160 such private professional provider shall prepare an affidavit or affidavits on a form
161 adopted by the Department of Community Affairs certifying under oath that the following
162 is true and correct to the best of such private professional provider's knowledge and belief
163 and in accordance with the applicable professional standard of care:

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

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

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

171 (12) All private professional providers providing plan review or inspection services
172 pursuant to this subsection shall secure and maintain insurance coverage for professional
173 liability (errors and omissions) insurance. The limits of such insurance shall be not less
174 than \$1 million per claim and \$1 million in aggregate coverage for any project with a
175 construction cost of \$5 million or less and \$2 million per claim and \$2 million in
176 aggregate coverage for any project with a construction cost of more than \$5 million.

177 Such insurance may be a practice policy or project-specific coverage. If the insurance
178 is a practice policy, it shall contain prior acts coverage for the private professional
179 provider. If the insurance is project-specific, it shall continue in effect for two years
180 following the issuance of the certificate of final completion for the project. A local
181 enforcement agency, local building official, or local government may establish, for
182 private professional providers working within that jurisdiction, a system of registration
183 listing the private professional providers within their stated areas of competency. The
184 permit applicant shall verify compliance with the insurance requirements of this
185 paragraph.

186 (13) The private professional provider shall be empowered to perform any plan review
187 or inspection required by the governing authority of any county or municipality,
188 including, but not limited to, inspections for footings, foundations, concrete slabs,
189 framing, electrical, plumbing, heating ventilation and air conditioning (HVAC), or any
190 and all other inspections necessary or required to determine compliance with all
191 regulatory requirements and for the issuance of a building permit or certificate of
192 occupancy by the governing authority of any county or municipality, provided that the
193 plan review or inspection is within the scope of such private professional provider's area
194 of competency; and provided, further, that a qualified inspector acting as a private
195 professional provider shall only be empowered to perform a plan review or inspection
196 within an area for which such qualified inspector has been issued a certification, license,
197 or completion of training provided for in paragraph (2) of subsection (a) of Code
198 Section 8-2-26.1. Nothing in this Code section shall authorize any private professional
199 provider to issue a certificate of occupancy. Only a local governing authority shall be
200 authorized to issue a certificate of occupancy.

201 (14)(A) The permit applicant shall submit a copy of the private professional provider's
202 plan review report to the county or municipality within five days of its completion.
203 Such plan review report shall include at a minimum both of the following:

204 (i) The affidavit of the private professional provider required pursuant to this
205 subsection; and

206 (ii) Any documents required by the local official and any other documents necessary
207 to determine that the permit applicant has secured all other governmental approvals
208 required by law.

209 (B) No more than 15 business days after receipt of both a permit application and the
210 affidavit from the private professional provider required pursuant to this subsection, the
211 local building official shall issue the requested permit or provide written notice to the
212 permit applicant identifying the specific plan features that do not comply with the
213 applicable regulatory requirements, as well as the specific code chapters and sections
214 of such regulatory requirements. If the local building official does not provide a written
215 notice of the plan deficiencies within the prescribed 15 business-day period, the permit
216 application shall be deemed approved as a matter of law and the permit shall be issued
217 by the local building official on the next business day.

218 (C) If the local building official provides a written notice of plan deficiencies to the
219 permit applicant within the prescribed 15 business-day period, the 15 business-day
220 period shall be tolled pending resolution of the matter. To resolve the plan deficiencies,
221 the permit applicant may elect to dispute the deficiencies pursuant to this subsection or
222 to submit revisions to correct the deficiencies.

223 (D) If the permit applicant submits revisions to address the plan deficiencies previously
224 identified, the local building official shall have the remainder of the tolled 15
225 business-day period plus an additional five business days to issue the requested permit
226 or to provide a second written notice to the permit applicant stating which of the
227 previously identified plan features remain in noncompliance with the applicable
228 regulatory requirements, with specific reference to the relevant code chapters and
229 sections of such regulatory requirements. If the local building official does not provide
230 the second written notice within the prescribed time period, the permit shall be issued

231 by the local building official on the next business day. In the event that the revisions
232 required to address the plan deficiencies or any additional revisions submitted by the
233 applicant require that new governmental approvals be obtained, the applicant shall be
234 required to obtain such approvals before a new plan report can be submitted.

235 (E) If the local building official provides a second written notice of plan deficiencies
236 to the permit applicant within the prescribed time period, the permit applicant may elect
237 to dispute the deficiencies pursuant to this subsection or to submit additional revisions
238 to correct the deficiencies. For all revisions submitted after the first revision, the local
239 building official shall have an additional five business days to issue the requested
240 permit or to provide a written notice to the permit applicant stating which of the
241 previously identified plan features remain in noncompliance with the applicable
242 regulatory requirements, with specific reference to the relevant code chapters and
243 sections.

244 (15) Upon submission by the private professional provider of a copy of his or her
245 inspection report to the local governing authority, said local governing authority shall be
246 required to accept the inspection of the private professional provider without the necessity
247 of further inspection or approval by the inspectors or other personnel employed by the
248 local governing authority unless said governing authority has notified the private
249 professional provider, within two business days after the submission of the inspection
250 report, that it finds the report incomplete or the inspection inadequate and has provided
251 the private professional provider with a written description of the deficiencies and
252 specific regulatory requirements that have not been adequately addressed.

253 (16) A local governing authority may provide for the prequalification of private
254 professional providers who may perform plan reviews or inspections pursuant to this
255 subsection. No ordinance implementing prequalification shall become effective until
256 notice of the governing authority's intent to require prequalification and the specific
257 requirements for prequalification have been advertised in the newspaper in which the

258 sheriff's advertisements for that locality are published, and by any other methods such
259 local authority ordinarily utilizes for notification of engineering, architecture, or
260 construction related solicitations. The ordinance implementing prequalification shall
261 provide for evaluation of the qualifications of a private professional provider only on the
262 basis of the private professional provider's expertise with respect to the objectives of this
263 subsection, as demonstrated by the private professional provider's experience, education,
264 and training. Such ordinance may require a private professional provider to hold
265 additional certifications, provided that such certifications are required by ordinance for
266 plan review personnel currently directly employed by such local governing authority.
267 (17) Nothing in this subsection shall be construed to limit any public or private right of
268 action designed to provide protection, rights, or remedies for consumers.
269 (18) If the local building official determines that the building construction or plans do
270 not comply with the applicable regulatory requirements, the official may deny the permit
271 or request for a certificate of occupancy or certificate of completion, as appropriate, or
272 may issue a stop-work order for the project or any portion thereof as provided by law,
273 after giving notice to the owner, the architect of record, the engineer of record, or the
274 contractor of record and by posting a copy of the order on the site of the project and
275 opportunity to remedy the violation within the time limits set forth in the notice, if the
276 official determines noncompliance with regulatory requirements, provided that:
277 (A) A local building official shall be available to meet with the private professional
278 provider within two business days to resolve any dispute after issuing a stop-work order
279 or providing notice to the applicant denying a permit or request for a certificate of
280 occupancy or certificate of completion; and
281 (B) If the local building official and the private professional provider are unable to
282 resolve the dispute or meet within the time required by this Code section, the matter
283 shall be referred to the local enforcement agency's board of appeals, if one exists, which
284 shall consider the matter not later than its next scheduled meeting. Any decisions by

285 the local official, if there is no board of appeals, may be appealed to the Department of
286 Community Affairs as provided in this chapter. The Department of Community Affairs
287 shall develop rules and regulations which shall establish reasonable time frames and
288 fees to carry out the provisions of this paragraph.

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

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

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

307 (22) When performing plan reviews or inspection services, a private professional
308 provider is subject to the disciplinary guidelines of the applicable professional licensing
309 board with jurisdiction over such private professional provider's license or certification
310 under Chapters 4 and 15 of Title 43, as applicable. Any complaint processing,
311 investigation, and discipline that arise out of a private professional provider's

312 performance of plan reviews or inspection services shall be conducted by the applicable
313 professional licensing board. Notwithstanding any disciplinary rules of the applicable
314 professional licensing board with jurisdiction over such private professional provider's
315 license or certification under Chapters 4 and 15 of Title 43, any local building official
316 may decline to accept plan reviews or inspection services submitted by any private
317 professional provider who has submitted multiple reports which required revisions due
318 to negligence, noncompliance, or deficiencies.

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

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

324 **SECTION 2.**

325 This Act shall become effective on July 1, 2026, and shall apply to all plan reviews or
326 inspections occurring on or after such date.

327 **SECTION 3.**

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