

Senate Bill 501

By: Senators Robertson of the 29th, Albers of the 56th, Bearden of the 30th, Brass of the 6th, Still of the 48th and others

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 reinspection fee; to provide for an effective date; to provide for related matters; to repeal
14 conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 501

- 1 -

PART I*Fire protection and safety***SECTION 1-1.**

19 Title 25 of the Official Code of Georgia Annotated, relating to fire protection and safety, is
20 amended in Chapter 2, relating to regulation of fire and other hazards to persons and property
21 generally, by revising Code Section 25-2-4, relating to adoption of rules and regulations by
22 Commissioner, as follows:

23 "25-2-4.

24 The Commissioner shall adopt such rules and regulations as he or she deems necessary to
25 promote the enforcement of this chapter. Such rules and regulations shall have the force
26 and effect of law and shall have state-wide application as being the state minimum fire
27 safety standards and shall not require adoption by a municipality or county. The governing
28 authority of any municipality or county in this state is authorized to enforce the state
29 minimum fire safety standards on all buildings and structures except one-family and
30 two-family dwellings and those buildings and structures listed in Code Section 25-2-13.
31 All other applications of the state minimum fire safety standards and fees are specified in
32 Code Sections 25-2-4.1, 25-2-12, and 25-2-12.1. Before the Commissioner shall adopt as
33 a part of his or her rules and regulations for the enforcement of this chapter any of the
34 principles of the various codes referred to in this chapter, he or she shall first consider and
35 approve them as reasonably suitable for the enforcement of this chapter. Not less than
36 15 days before any rules and regulations are promulgated, a public hearing shall be held.
37 Notice of the hearing shall be advertised in a newspaper of general circulation. The
38 Commissioner shall be authorized to satisfy the requirements of this Code section by
39 complying with Code Section 33-2-9."

40 **SECTION 1-2.**

41 Said title is further amended in said chapter by revising Code Section 25-2-5, relating to
42 appointment, qualifications, and salary of state fire marshal, as follows:

43 "25-2-5.

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

48 **SECTION 1-3.**

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

51 "25-2-6.

52 The Safety Fire Division of the office of the Commissioner of Insurance shall be headed
53 by the ~~state fire marshal~~ deputy commissioner of safety fire appointed by the
54 Commissioner."

55 **SECTION 1-4.**

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

58 "25-2-7.

59 The deputy commissioner of safety fire, in coordination with the state fire marshal, subject
60 to the approval of the Commissioner, shall appoint a deputy state fire marshal and
61 administrative fire safety specialists and shall employ such office personnel as may be
62 required to carry out this chapter. The deputy state fire marshal and administrative fire
63 safety specialists shall be chosen by virtue of their previous training and experience in the

64 particular duties which shall be assigned to them. They shall take an oath to perform
65 faithfully the duties of their office."

66 **SECTION 1-5.**

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

69 "25-2-8.

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

75 **SECTION 1-6.**

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

79 "(c) Personnel employed and authorized by the state fire marshal shall have the power to
80 make arrests for criminal violations established as a result of investigations. Such
81 personnel shall hold certification as a peace officer from the Georgia Peace Officer
82 Standards and Training Council and shall have the power to execute arrest warrants and
83 search warrants for criminal violations, to serve subpoenas issued for examination,
84 investigation, and trial of all offenses determined by their investigations, and to arrest, upon
85 probable cause and without warrant, any person found violating any of the provisions of
86 applicable criminal laws. Authorized personnel empowered to make arrests pursuant to
87 this Code section shall be empowered to carry firearms as authorized by the state fire
88 marshal in the performance of their duties. It shall be unlawful for any person to resist an

89 arrest authorized by this Code section or to interfere in any manner, including abetting or
 90 assisting such resistance or interference, with personnel employed by the state fire marshal
 91 in the duties imposed upon such personnel by law."

92 **SECTION 1-7.**

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

95 "25-2-10.

96 (a) Any ~~Should~~ any person, firm, corporation, or public entity be dissatisfied with any
 97 ruling or decision of the state fire marshal, the right is granted to appeal within ten days to
 98 the Commissioner aggrieved or adversely affected by an order or action of the
 99 Commissioner under this title may request a hearing within ten days of receipt of the order
 100 or notice of the action in accordance with the procedure for the conduct of hearings in
 101 contested cases as provided under Chapter 2 of Title 33.

102 (b) If the any person, firm, corporation, or public entity is dissatisfied with the decision of
 103 the Commissioner, appeal is authorized to the superior court within 30 days aggrieved or
 104 adversely affected by a final order of the Commissioner, the form of proceeding for judicial
 105 review shall be by a petition for review in the Superior Court of Fulton County in the
 106 manner provided under Chapter 13 of Title 50 Code Section 33-2-27.

107 (c) In the event of such appeal petition for review as provided in subsection (b) of this
 108 Code section, the person, firm, corporation, or public entity shall give a surety bond which
 109 will be conditioned upon compliance with the order and direction of the state fire marshal
 110 or the Commissioner or both. The amount of bond shall be fixed by the Commissioner in
 111 such amount as will reasonably cover the order issued by the Commissioner or the state fire
 112 marshal or both."

SECTION 1-8.

113

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

116 "25-2-11.

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

124 (b) There is established an appeals board consisting of the state fire marshal, who shall
125 serve as chairperson of such board, and four members appointed by the Commissioner as
126 follows:

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

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

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

132 (4) One licensed commercial general contractor licensed under Chapter 41 of Title 43.

133 (c) The term of each appointed member of the appeals board shall be for one year. Each
134 member shall serve until a successor is appointed and qualified. Members of the appeals
135 board shall serve as such without compensation but shall receive the same expense
136 allowance as that received by members of the General Assembly and the same mileage
137 allowance for the use of a personal car or a travel allowance of actual transportation cost
138 if traveling by public carrier as that received by all other state officials and employees.

139 (d) The Safety Fire Division of the office of the Commissioner of Insurance shall provide
140 reasonable administrative support to the appeals board.

141 (e) The appeals board shall be authorized to uphold, modify, and reverse in whole or in
142 part a local authority's final ruling. The appeals board shall be authorized to overrule a
143 local authority's order to cease and desist, stop work, or similar order when such orders are
144 found not to have presented an imminent danger to life and safety of the occupants of the
145 building or structure in question.

146 (f) The Commissioner shall promulgate rules and regulations necessary to implement the
147 provisions of this Code section. Reserved."

148 **SECTION 1-9.**

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

152 "(e) All deputized local fire marshals, deputy local fire marshals, and state inspectors shall
153 submit monthly reports of their activities to the state fire marshal and shall comply with the
154 administrative and operational procedures of the ~~state fire marshal's office~~ Safety Fire
155 Division of the office of the Commissioner of Insurance. The state fire marshal or the
156 Commissioner's designee shall be authorized to review all actions and documentation of
157 deputized personnel at any time to assure compliance with administrative and operational
158 procedures. The state fire marshal or the Commissioner's designee shall be authorized to
159 reverse, change, mitigate, or assume direction of any action of deputized personnel. Any
160 deputized local fire marshal, deputy local fire marshal, or state inspector who is found by
161 the state fire marshal to be negligent in performing his appointed duties or in fulfilling his
162 responsibilities shall be removed from his position as a state officer."

163 **SECTION 1-10.**

164 Said title is further amended in said chapter by adding a new subsection to Code Section
165 25-2-14.2, relating to authority of state fire marshal to deny permit or request for certificate
166 or to issue stop-work order, to read as follows:

167 "(c) 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 building
169 construction is complete or such building or structure has been issued a certificate of
170 occupancy, when such building or structure or any condition or cause presents an imminent
171 life safety hazard of any type. Such order shall remain in effect until the Commissioner or
172 his or her designee is satisfied such hazard is fully mitigated."

173 **SECTION 1-11.**

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

176 "25-2-23.

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

184 (b) The Commissioner or his or her designee shall be authorized to issue an immediate
185 evacuation order of all persons from any building or structure, whether or not such building
186 or structure has been issued a certificate of occupancy, when such building or structure or
187 any condition or cause presents an imminent life safety hazard of any type. Such order

188 shall remain in effect until the Commissioner or his or her designee is satisfied such hazard
189 is fully mitigated."

190 **SECTION 1-12.**

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

193 "25-2-24.

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

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

204 **SECTION 1-13.**

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

207 "25-2-26.

208 In accordance with Code Section 25-2-3, the Commissioner shall be authorized to
209 implement and enforce the provisions of this title and the rules and regulations made
210 pursuant to this title, except as provided for in Code Section 25-2-12, subject to a petition
211 for judicial review to the Superior Court of Fulton County as provided for in Code
212 Section 25-2-10. Code Sections 25-2-22 through 25-2-25 shall be construed so that the

213 ~~final authority for ordering the carrying out and enforcement of such Code sections shall~~
214 ~~be by order of the court and not by the Commissioner or his delegated authority."~~

215 **SECTION 1-14.**

216 Said title is further amended in said chapter by revising subsection (a) of Code
217 Section 25-2-28, relating to suspected arson investigation - power to subpoena witnesses and
218 documents, administration of oaths, and court order to compel compliance, as follows:

219 "(a) ~~The state fire marshal or the deputy state fire marshal~~ Commissioner or his or her
220 designee shall have the power to summon and compel the attendance of witnesses ~~before~~
221 ~~either or both of them, in any county in which the witness resides,~~ to testify in relation to
222 any matter ~~which is designated by Code Section 25-2-27~~ regulated under this title as a
223 subject of inquiry and to issue subpoenas to compel the production of all books, records,
224 documents, and papers pertaining to such subject of inquiry. The state fire marshal and
225 deputy state fire marshal may also administer oaths and affirmations to persons appearing
226 as witnesses before them. Any person summoned shall have the right of counsel at the
227 hearing if he or she desires."

228 **SECTION 1-15.**

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

231 "25-2-32.1.

232 (a) Every case of a burn injury or wound where the victim sustained second-degree or
233 third-degree burns to 5 percent or more of the body or any burns to the upper respiratory
234 tract or laryngeal edema due to the inhalation of superheated air, and every case of a burn
235 injury or wound which is likely to or may result in death, shall be reported at once to the
236 Safety Fire Division of the office of the Commissioner of Insurance. The Safety Fire
237 Division shall accept the report and notify the proper investigatory agency as may be

238 appropriate. A written report shall be provided to the Safety Fire Division within 72 hours.
239 The report shall be made by the physician attending or treating the case or by the manager,
240 superintendent, or other person in charge whenever such case is treated in a hospital
241 sanitarium, institution, or other medical facility.

242 (b) All fatalities allegedly resulting from fire or smoke shall be reported immediately to
243 the Safety Fire Division and shall be investigated by personnel employed or authorized by
244 the state fire marshal or the Commissioner or his or designee before the decedent's body
245 is removed from the fire scene. No firefighter, law enforcement officer, or coroner shall
246 move or cause to be moved a decedent's body until authorized by personnel employed or
247 authorized by the state fire marshal or the Commissioner or his or her designee. Such
248 personnel shall be authorized to decline to initiate a fatality investigation after discussing
249 circumstances with local officials before responding to the scene and shall provide written
250 notification to such officials upon arriving at the scene."

251 **SECTION 1-16.**

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

255 "25-2-38.

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

260 (b) A law enforcement officer shall be authorized to issue a citation, summons, or
261 accusation or to effect a custodial arrest in addition to the issuance of a citation, summons,
262 or accusation. The citation, summons, or accusation shall enumerate the specific charges
263 against the person and either the date upon which the person is to appear and answer the

264 charges or a notation that the person will be later notified of the date upon which the person
 265 is to appear and answer the charges.
 266 (c) Any probate court, state court, or other court of competent jurisdiction shall be
 267 authorized to hear and adjudicate misdemeanor violations of this title."

268 **SECTION 1-17.**

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

272 "(2) Any occupant who fails to maintain a smoke detector in a dwelling, dwelling unit,
 273 or other facility, other than a nursing home, listed in subsection (a) of this Code section
 274 in good working order as required in this Code section shall be subject to a maximum fine
 275 of ~~\$25.00~~ \$250.00 per detector, provided that a warning shall be issued for a first
 276 violation."

277 **SECTION 1-18.**

278 Said title is further amended in Article 1 of Chapter 15, relating to other safety inspections
 279 and regulations of boilers and pressure vessels, by revising Code Section 25-15-28, relating
 280 to appeals, as follows:

281 "25-15-28.

282 (a) Any person aggrieved by an order or an act of the Commissioner or the chief inspector
 283 under this article may, within ~~15~~ ten days of notice thereof, request a hearing ~~before an~~
 284 ~~administrative law judge of the Office of State Administrative Hearings, as provided by~~
 285 ~~Code Section 50-13-41~~ in accordance with the procedure for conduct of hearings in
 286 contested cases provided under Chapter 2 of Title 33.

287 (b) ~~Any person aggrieved by a decision of an administrative law judge may file an appeal~~
 288 ~~pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'~~"

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290
291

PART II

Buildings and housing

SECTION 2-1.

292 Title 8 of the Official Code of Georgia Annotated, relating to buildings and housing, is
293 amended in Part 2 of Article 2 of Chapter 2, relating to manufactured homes, by revising
294 Code Section 8-2-135, relating to licensing, by striking "and" at the end of paragraph (4), by
295 replacing the period with "; and" at the end of paragraph (5), and by adding a new paragraph
296 to read as follows:

297 "(6) Upon receipt of a sufficient number of complaints or complaints of a serious nature
298 about a licensee or upon a licensee's continued noncompliance with this part or
299 regulations promulgated under this part, the Commissioner shall have the authority to
300 suspend or revoke a license issued under this Code section."

301

SECTION 2-2.

302 Said title is further amended in said part by revising subsection (a) of Code
303 Section 8-2-135.1, relating to manufacturing and monitoring inspection fees, as follows:

304 "(a) During such time as the Commissioner's office is acting as the primary inspection
305 agency pursuant to Section 623 of the National Manufactured Housing Construction and
306 Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq., or the regulations issued
307 thereunder, every manufacturer who manufactures manufactured homes in Georgia shall
308 pay to the Commissioner a manufacturing inspection fee for each manufactured home
309 manufactured in Georgia, irrespective of whether the manufactured home is offered for sale
310 in this state. This manufacturing inspection fee shall be \$30.00 for each certification label,
311 as defined in Section 623 of the National Manufactured Housing Construction and Safety
312 Standards Act of 1974, 42 U.S.C. Section 5401, et seq. For any reinspection, a ~~\$15.00~~
313 \$250.00 additional fee shall be charged."

314 **SECTION 2-3.**

315 Said title is further amended in said part by revising subsection (a) of Code Section 8-2-137,
316 relating to hearings and dispute resolution program, as follows:

317 "(a) Any hearing conducted under the provisions of this chapter or of the rules and
318 regulations promulgated under this part shall be in accordance with ~~Chapter 13 of Title 50,~~
319 ~~the 'Georgia Administrative Procedure Act.'~~ Chapter 2 of Title 33."

320 **SECTION 2-4.**

321 Said title is further amended in said part by revising subsection (b) of Code Section 8-2-141,
322 relating to monetary penalty and injunctive relief, as follows:

323 "(b) Any such monetary penalty may be imposed by the Commissioner after notice and
324 opportunity for hearing as provided under Chapter 13 of Title 50, the 'Georgia
325 Administrative Procedure Act.' The Commissioner shall be authorized to satisfy the
326 requirements of this subsection by complying with Chapter 2 of Title 33. The amount of
327 such penalty may be collected by the Commissioner in the same manner that money
328 judgments are now enforced in the superior courts of this state."

329 **SECTION 2-5.**

330 Said title is further amended in Part 3 of said article, relating to installation of manufactured
331 homes and mobile homes, by revising subsection (a) of Code Section 8-2-168, relating to
332 hearings, as follows:

333 "(a) The adoption of rules and conduct of hearings under this part shall be in compliance
334 with the provisions of ~~Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'~~
335 Chapter 2 of Title 33."

336 **SECTION 2-6.**

337 Said title is further amended in Article 3 of said chapter, relating to application of building
338 and fire related codes to existing buildings, by revising Code Section 8-2-221, relating to
339 appeals of rulings or decisions, as follows:

340 "8-2-221.

341 Should any person, firm, corporation, or other entity be dissatisfied with any ruling or
342 decision of the state fire marshal pursuant to the provisions of this article, the right is
343 granted to appeal within ten days to the Commissioner. If the person, firm, corporation, or
344 other entity is dissatisfied with the decision of the Commissioner, appeal is authorized to
345 the superior court within 30 days in the manner provided under Chapter ~~13~~ 2 of Title ~~50~~ 33.
346 In the event of such appeal, the person, firm, corporation, or other entity shall give a surety
347 bond which will be conditioned upon compliance with the order and direction of the state
348 fire marshal or the Commissioner or both. The amount of bond shall be fixed by the
349 Commissioner in such amount as will reasonably cover the order issued by the
350 Commissioner or the state fire marshal or both."

351 **PART III**

352 *Effective date and repealer*

353 **SECTION 3-1.**

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

356 **SECTION 3-2.**

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