

Senate Bill 437

By: Senators Dixon of the 45th, Robertson of the 29th, Still of the 48th, Goodman of the 8th and Watson of the 11th

**AS PASSED SENATE**

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:

S. B. 437

- 1 -

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, for residential single construction trades, such as structural,  
84 plumbing, mechanical, or electrical and consisting of ten or less inspections, in  
85 accordance with the provisions of this Code section irrespective of whether the county  
86 or municipality determines that the personnel employed or contracted by such county or  
87 municipality can provide regulatory action or inspection services within the time frames  
88 required under paragraph (5) of this subsection. If the applicant elects to utilize the  
89 services of a private professional provider, the regulatory fees associated with such  
90 regulatory action shall be reduced by 50 percent and such reduced amount shall be paid  
91 to the county or municipality in accordance with such jurisdiction's policies. The local  
92 governing authority shall not charge any convenience fees when an applicant retains a  
93 private professional provider to provide the required plan review or inspection.

94 (7)(A) An applicant using a private professional provider pursuant to paragraph (6) of  
95 this subsection shall notify the local governing authority in writing at the time of the  
96 permit application, or by 2:00 P.M. two business days before the first scheduled

97 inspection by the local governing authority that a private professional provider has been  
98 contracted to perform the required plan review or inspection. This notice shall include:

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

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

123 personnel to perform building code inspection services with respect to the building  
124 or structure that is the subject of the enclosed permit application.'

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

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

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

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

149 purposes of this subsection. This paragraph shall not be applicable if the applicant elects  
150 to retain a private professional provider to provide the required plan review.

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

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

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

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

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

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

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

176 construction cost of \$5 million or less and \$2 million per claim and \$2 million in  
177 aggregate coverage for any project with a construction cost of more than \$5 million.  
178 Such insurance may be a practice policy or project-specific coverage. If the insurance  
179 is a practice policy, it shall contain prior acts coverage for the private professional  
180 provider. If the insurance is project-specific, it shall continue in effect for two years  
181 following the issuance of the certificate of final completion for the project. A local  
182 enforcement agency, local building official, or local government may establish, for  
183 private professional providers working within that jurisdiction, a system of registration  
184 listing the private professional providers within their stated areas of competency. The  
185 permit applicant shall verify compliance with the insurance requirements of this  
186 paragraph.

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

202 (14)(A) The permit applicant shall submit a copy of the private professional provider's  
203 plan review report to the county or municipality within five days of its completion.  
204 Such plan review report shall include at a minimum both of the following:  
205 (i) The affidavit of the private professional provider required pursuant to this  
206 subsection; and  
207 (ii) Any documents required by the local official and any other documents necessary  
208 to determine that the permit applicant has secured all other governmental approvals  
209 required by law.

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

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

224 (D) If the permit applicant submits revisions to address the plan deficiencies previously  
225 identified, the local building official shall have the remainder of the tolled 15  
226 business-day period plus an additional five business days to issue the requested permit  
227 or to provide a second written notice to the permit applicant stating which of the  
228 previously identified plan features remain in noncompliance with the applicable

229 regulatory requirements, with specific reference to the relevant code chapters and  
230 sections of such regulatory requirements. If the local building official does not provide  
231 the second written notice within the prescribed time period, the permit shall be issued  
232 by the local building official on the next business day. In the event that the revisions  
233 required to address the plan deficiencies or any additional revisions submitted by the  
234 applicant require that new governmental approvals be obtained, the applicant shall be  
235 required to obtain such approvals before a new plan report can be submitted.

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

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

254 (16) A local governing authority may provide for the prequalification of private  
255 professional providers who may perform plan reviews or inspections pursuant to this

256 subsection. No ordinance implementing prequalification shall become effective until  
257 notice of the governing authority's intent to require prequalification and the specific  
258 requirements for prequalification have been advertised in the newspaper in which the  
259 sheriff's advertisements for that locality are published, and by any other methods such  
260 local authority ordinarily utilizes for notification of engineering, architecture, or  
261 construction related solicitations. The ordinance implementing prequalification shall  
262 provide for evaluation of the qualifications of a private professional provider only on the  
263 basis of the private professional provider's expertise with respect to the objectives of this  
264 subsection, as demonstrated by the private professional provider's experience, education,  
265 and training. Such ordinance may require a private professional provider to hold  
266 additional certifications, provided that such certifications are required by ordinance for  
267 plan review personnel currently directly employed by such local governing authority.  
268 (17) Nothing in this subsection shall be construed to limit any public or private right of  
269 action designed to provide protection, rights, or remedies for consumers.  
270 (18) If the local building official determines that the building construction or plans do  
271 not comply with the applicable regulatory requirements, the official may deny the permit  
272 or request for a certificate of occupancy or certificate of completion, as appropriate, or  
273 may issue a stop-work order for the project or any portion thereof as provided by law,  
274 after giving notice to the owner, the architect of record, the engineer of record, or the  
275 contractor of record and by posting a copy of the order on the site of the project and  
276 opportunity to remedy the violation within the time limits set forth in the notice, if the  
277 official determines noncompliance with regulatory requirements, provided that:  
278 (A) A local building official shall be available to meet with the private professional  
279 provider within two business days to resolve any dispute after issuing a stop-work order  
280 or providing notice to the applicant denying a permit or request for a certificate of  
281 occupancy or certificate of completion; and

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

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

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

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

308 (22) When performing plan reviews or inspection services, a private professional  
309 provider is subject to the disciplinary guidelines of the applicable professional licensing  
310 board with jurisdiction over such private professional provider's license or certification  
311 under Chapters 4 and 15 of Title 43, as applicable. Any complaint processing,  
312 investigation, and discipline that arise out of a private professional provider's  
313 performance of plan reviews or inspection services shall be conducted by the applicable  
314 professional licensing board. Notwithstanding any disciplinary rules of the applicable  
315 professional licensing board with jurisdiction over such private professional provider's  
316 license or certification under Chapters 4 and 15 of Title 43, any local building official  
317 may decline to accept plan reviews or inspection services submitted by any private  
318 professional provider who has submitted multiple reports which required revisions due  
319 to negligence, noncompliance, or deficiencies.

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

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

325 **SECTION 2.**

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

328 **SECTION 3.**

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