

The House Committee on Governmental Affairs offers the following substitute to SB 437:

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

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 437 (SUB)

**SECTION 1.**

17

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

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

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

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

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

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

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

35 (iii) Qualified inspector as such term is defined in Code Section 8-2-26.1

36 who is not an employee of or otherwise affiliated with or financially interested in the  
37 person, firm, or corporation engaged in the construction project to be reviewed or  
38 inspected.

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

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

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

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

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

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

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

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

96 (i) The services to be performed by the private professional provider;

- 97 (ii) The name, firm, address, telephone number, and email address of the private  
98 professional provider performing such services;
- 99 (iii) A directory of licensed individuals who are eligible to perform such services;
- 100 (iv) The private professional provider's professional licenses or certification numbers;
- 101 (v) A certificate demonstrating professional liability insurance coverage in place for  
102 the private professional provider's firm, the private professional provider, and any  
103 duly authorized representative in the amounts required by this subsection; and
- 104 (vi) A written acknowledgment from the applicant in substantially the following  
105 form:
- 106 'I have elected to use one or more private professional providers to provide building  
107 code inspection services on the building or structure that is the subject of the  
108 enclosed permit application, as authorized by O.C.G.A. Section 8-2-26(g). I  
109 understand that the county or municipality may not perform the required building  
110 inspection to determine compliance with the applicable building codes, except to the  
111 extent specified in said codes. Instead the required building inspections will be  
112 performed by the licensed or certified personnel identified in the application. The  
113 law requires minimum insurance requirements for such personnel. By executing  
114 this form I acknowledge that I have made an inquiry regarding the competence of  
115 the licensed or certified personnel and the level of their insurance and am satisfied  
116 my interests are adequately protected. I agree to indemnify, defend, and hold  
117 harmless the county and/or municipality, and their building code enforcement  
118 personnel from any and all claims arising from my use of these licensed or certified  
119 personnel to perform building code inspection services with respect to the building  
120 or structure that is the subject of the enclosed permit application.'
- 121 (vii) The commissioner shall promulgate a notice form on the department website  
122 that meets the requirements of divisions (i) through (vi) of this subparagraph.

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

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

130 (8) Any inspection conducted either in person or virtually by a private professional  
131 provider shall be no less extensive than inspections conducted by county or municipal  
132 personnel.

133 (9) The person, firm, or corporation retaining a private professional provider to conduct  
134 an inspection shall be required to pay to the county or municipality which requires the  
135 inspection the regulatory fees and charges which are required by paragraph (6) of this  
136 subsection.

137 (10) All private professional providers providing inspection services pursuant to this  
138 subsection shall secure and maintain insurance coverage for professional liability (errors  
139 and omissions) insurance. The limits of such insurance shall be not less than \$1 million  
140 per claim and \$1 million in aggregate coverage for any project with a construction cost  
141 of \$10 million or less and \$2 million per claim and \$2 million in aggregate coverage for  
142 any project with a construction cost of more than \$10 million. Such insurance may be  
143 a practice policy or project-specific coverage. If the insurance is a practice policy, it shall  
144 contain prior acts coverage for the private professional provider. If the insurance is  
145 project-specific, it shall continue in effect for two years following the issuance of the  
146 certificate of final completion for the project. A local enforcement agency, local building  
147 official, or local government may establish, for private professional providers working  
148 within that jurisdiction, a system of registration listing the private professional providers

149 within their stated areas of competency. The permit applicant shall verify compliance  
150 with the insurance requirements of this paragraph.

151 (11) The private professional provider shall be empowered to perform any inspection  
152 required by the governing authority of any county or municipality, including, but not  
153 limited to, inspections for footings, foundations, concrete slabs, framing, electrical,  
154 plumbing, heating ventilation and air conditioning (HVAC), or any and all other  
155 inspections necessary or required to determine compliance with all regulatory  
156 requirements and for the issuance of a building permit or certificate of occupancy by the  
157 governing authority of any county or municipality, provided that the inspection is within  
158 the scope of such private professional provider's area of competency; and provided,  
159 further, that a qualified inspector acting as a private professional provider shall only be  
160 empowered to perform an inspection within an area for which such qualified inspector  
161 has been issued a certification, license, or completion of training provided for in  
162 paragraph (2) of subsection (a) of Code Section 8-2-26.1. Nothing in this Code section  
163 shall authorize any private professional provider to issue a certificate of occupancy. Only  
164 a local governing authority shall be authorized to issue a certificate of occupancy.

165 (12) Upon submission by the private professional provider of a copy of his or her  
166 inspection report to the local governing authority, said local governing authority shall be  
167 required to accept the inspection of the private professional provider without the necessity  
168 of further inspection or approval by the inspectors or other personnel employed by the  
169 local governing authority unless said governing authority has notified the private  
170 professional provider, within two business days after the submission of the inspection  
171 report, that it finds the report incomplete or the inspection inadequate and has provided  
172 the private professional provider with a written description of the deficiencies and  
173 specific regulatory requirements that have not been adequately addressed.

174 (13) A local governing authority may provide for the prequalification of private  
175 professional providers who may perform inspections pursuant to this subsection. No

176 ordinance implementing prequalification shall become effective until notice of the  
177 governing authority's intent to require prequalification and the specific requirements for  
178 prequalification have been advertised in the newspaper in which the sheriff's  
179 advertisements for that locality are published, and by any other methods such local  
180 authority ordinarily utilizes for notification of engineering, architecture, or construction  
181 related solicitations. The ordinance implementing prequalification shall provide for  
182 evaluation of the qualifications of a private professional provider only on the basis of the  
183 private professional provider's expertise with respect to the objectives of this subsection,  
184 as demonstrated by the private professional provider's experience, education, and  
185 training.

186 (14) Nothing in this subsection shall be construed to limit any public or private right of  
187 action designed to provide protection, rights, or remedies for consumers.

188 (15) If the local building official determines that the building construction does not  
189 comply with the applicable regulatory requirements, the official may deny the permit or  
190 request for a certificate of occupancy or certificate of completion, as appropriate, or may  
191 issue a stop-work order for the project or any portion thereof as provided by law, after  
192 giving notice to the owner, the architect of record, the engineer of record, or the  
193 contractor of record and by posting a copy of the order on the site of the project and  
194 opportunity to remedy the violation within the time limits set forth in the notice, if the  
195 official determines noncompliance with regulatory requirements, provided that:

196 (A) A local building official shall be available to meet with the private professional  
197 provider within two business days to resolve any dispute after issuing a stop-work order  
198 or providing notice to the applicant denying a permit or request for a certificate of  
199 occupancy or certificate of completion; and

200 (B) If the local building official and the private professional provider are unable to  
201 resolve the dispute or meet within the time required by this Code section, the matter  
202 shall be referred to the local enforcement agency's board of appeals, if one exists, which

203 shall consider the matter not later than its next scheduled meeting. Any decisions by  
204 the local official, if there is no board of appeals, may be appealed to the Department of  
205 Community Affairs as provided in this chapter. The Department of Community Affairs  
206 shall develop rules and regulations which shall establish reasonable time frames and  
207 fees to carry out the provisions of this paragraph.

208 (16) The local government, a local building official, and local building code enforcement  
209 personnel and agents of the local government shall be immune from liability to any  
210 person or party for any action or inaction by an owner of a building or by a private  
211 professional provider or its duly authorized representative in connection with inspection  
212 services by private professional providers as provided in this subsection.

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

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

226 (19) When performing inspection services, a private professional provider is subject to  
227 the disciplinary guidelines of the applicable professional licensing board with jurisdiction  
228 over such private professional provider's license or certification under Chapters 4 and 15  
229 of Title 43, as applicable. Any complaint processing, investigation, and discipline that

230 arise out of a private professional provider's performance of inspection services shall be  
231 conducted by the applicable professional licensing board. Notwithstanding any  
232 disciplinary rules of the applicable professional licensing board with jurisdiction over  
233 such private professional provider's license or certification under Chapters 4 and 15 of  
234 Title 43, any local building official may decline to accept inspection services submitted  
235 by any private professional provider who has submitted multiple reports which required  
236 revisions due to negligence, noncompliance, or deficiencies.

237 (20) Nothing in this subsection shall apply to inspections exempted in Code  
238 Section 8-2-26.1.

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

242 **SECTION 2.**

243 This Act shall become effective on July 1, 2026, and shall apply to all inspections occurring  
244 on or after such date.

245 **SECTION 3.**

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