West's Code of Georgia Annotated Currentness
Title 8. Buildings and Housing
Chapter 2. Standards and Requirements for Construction, Alteration, ETC., of Buildings and Other Structures (Refs & Annos)
Article 1. Buildings, ETC., Generally
Part 1. General Provisions
§ 8-2-1. Legislative findings

The General Assembly finds that an adequate supply of clean drinking water is a precious and essential resource upon which life depends. The General Assembly further finds that the average annual per capita consumption of potable water due to indoor water-using activities in the United States exceeds 18,000 gallons and that the demand for clean water supplies continues to increase despite the limitations of availability and affordability of such supplies. The General Assembly further finds that technology is available to improve the efficiency of plumbing products.

§ 8-2-2. Purpose of law

The purposes of this part are as follows:

(1) To promote greater efficiency in residential and commercial water use and preserve the natural resources of this state;

(2) To reduce consumer water and energy costs by reducing indoor water use, reducing the need for new water supplies and treatment facilities, lowering operation and maintenance costs for water and sewer utilities, and reducing the amount of energy used to heat, treat, and transport water; and

(3) To generate consumer awareness of the need to save water and of the savings that can result from the use of efficient plumbing products.

§ 8-2-3. Requirements for commercial and residential construction; exemptions

(a) As used in this Code section, the term:

(1) "Commercial" means any type of building other than residential.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(2) “Construction” means the erection of a new building or the alteration of an existing building in connection with its repair or renovation or in connection with making an addition to an existing building and shall include the replacement of a malfunctioning, unserviceable, or obsolete faucet, showerhead, toilet, or urinal in an existing building.

(3) “Residential” means any building or unit of a building intended for occupancy as a dwelling but shall not include a hotel or motel.

(b) After April 1, 1992, there shall not be initiated within this state the construction of any residential building of any type which:

(1) Employs a gravity tank-type, flushometer-valve, or flushometer-tank toilet that uses more than an average of 1.6 gallons of water per flush; provided, however, this paragraph shall not be applicable to one-piece toilets until July 1, 1992;

(2) Employs a shower head that allows a flow of more than an average of 2.5 gallons of water per minute at 60 pounds per square inch of pressure;

(3) Employs a urinal that uses more than an average of 1.0 gallon of water per flush;

(4) Employs a lavatory faucet or lavatory replacement aerator that allows a flow of more than 2.0 gallons of water per minute; or

(5) Employs a kitchen faucet or kitchen replacement aerator that allows a flow of more than 2.5 gallons of water per minute.

(c) On and after July 1, 1992, there shall not be initiated within this state the construction of any commercial building of any type which does not meet the requirements of paragraphs (1) through (5) of subsection (b) of this Code section.

(d) The requirements of subsection (b) of this Code section shall apply to any residential construction initiated after April 1, 1992, and to any commercial construction initiated after July 1, 1992, which involves the repair or renovation of or addition to any existing building when such repair or renovation of or addition to such existing building includes the replacement of toilets or showers or both.

(e) Counties and municipalities are authorized and directed to provide by ordinance for an exemption to the requirements of subsections (b), (c), and (d) of this Code section, relative to new construction and to the repair or renovation of an existing building, under the following conditions:

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(1) When the repair or renovation of the existing building does not include the replacement of the plumbing or sewage system servicing toilets, faucets, or shower heads within such existing building;

(2) When such plumbing or sewage system within such existing building, because of its capacity, design, or installation, would not function properly if the toilets, faucets, or shower heads required by this part were installed;

(3) When such system is a well or gravity flow from a spring and is owned privately by an individual for use in such individual's personal residence; or

(4) When units to be installed are:

(A) Specifically designed for use by persons with disabilities;

(B) Specifically designed to withstand unusual abuse or installation in a penal institution; or

(C) Toilets for juveniles.

(f) The ordinances adopted by counties and municipalities pursuant to subsection (e) of this Code section shall provide procedures and requirements to apply for the exemption authorized by said subsection.

(g) This Code section shall not apply to any construction of a residential building the contract for which was entered into prior to April 1, 1992, and shall not apply to any construction of a commercial building the contract for which was entered into prior to July 1, 1992.

(h) Any person who installs any toilet, faucet, urinal, or shower head in violation of this Code section shall be guilty of a misdemeanor.

(i) Before April 1, 1992, a city, county, or authority shall adopt and enforce the provisions of this Code section in order to be eligible to receive any of the following grants, loans, or permits:

(1) A water or waste-water facilities grant administered by the Department of Natural Resources or the Department of Community Affairs; or

(2) A water or waste-water facilities loan administered by the Georgia Environmental Facilities Authority.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(j) For purposes of this part, after April 1, 1992, the sale of a gravity tank-type, flushometer-valve, or flushometer-tank toilet that uses more than an average of 1.6 gallons of water per flush shall be prohibited.

(k) The provisions of this Code section shall not be construed to prohibit counties or municipalities from adopting and enforcing local ordinances which provide requirements which are more stringent than the requirements of this Code section.

§ 8-2-20. Definitions

As used in this part, the term:

(1) “Board” means the Board of Community Affairs.

(2) “Commissioner” means the commissioner of community affairs.

(3) “Department” means the Department of Community Affairs.

(4) “Exempted building” means any of the following:

(A) Any building whose peak design rate of energy usage for heating, cooling, ventilation, and lighting is less than one watt or 3.4 British thermal units (BTUs) per hour per square foot of floor area for all purposes;

(B) Any building which is neither mechanically heated nor mechanically cooled;

(C) Any mobile home; and

(D) Any building owned or leased in whole or in part by the United States.

(5) “Exterior envelope” means those elements of a building which enclose conditioned spaces through which thermal energy may be transferred to or from the exterior.

(6) “New building” means any building on which final design is commenced after the adoption of the International Energy Conservation Code under this part.

(7) “Public building” means any building which is open to the public during normal business hours and is not an exempted building, including the following:

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(A) Any building which provides facilities or shelter for public assembly or which is used for educational, office, or institutional purposes;

(B) Any inn, hotel, motel, sports arena, supermarket, transportation terminal, retail store, restaurant, or other commercial establishment which provides services or retails merchandise;

(C) Any portion of an industrial plant building used primarily as office space; and

(D) Any building owned by the state or a political subdivision or instrumentality thereof, including libraries, museums, schools, hospitals, auditoriums, sports arenas, and university buildings.

(8) "Renovated building" means either of the following:

(A) A building undergoing alteration of the exterior envelope; heating, ventilation, and air-conditioning systems; water-heating systems; or lighting systems, for which the aggregate cost of alteration exceeds 10 percent of the assessed value of the building immediately prior to such alteration; or

(B) A building undergoing alteration in the physical configuration or interior space, for which the aggregate cost of alteration exceeds one-fourth of the assessed value of the building immediately prior to such alteration.

(9)(A)(i) On and after October 1, 1991, "state minimum standard codes" means the following codes:

(I) Standard Building Code (SBCCI);

(II) National Electrical Code as published by the National Fire Protection Association;

(III) Standard Gas Code (SBCCI);

(IV) Standard Mechanical Code (SBCCI);

(V) Georgia State Plumbing Code or the Standard Plumbing Code (SBCCI);

(VI) Council of American Building Officials One- and Two-Family Dwelling Code, with the exception of Part V--Plumbing (Chapters 20-25) of said code;

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(VII) Georgia State Energy Code for Buildings as adopted by the State Building Administrative Board pursuant to an Act approved April 10, 1978 (Ga. L. 1978, p. 2212), as such code exists on September 30, 1991;

(VIII) Standard Fire Prevention Code (SBCCI);

(IX) Standard Housing Code (SBCCI);

(X) Standard Amusement Device Code (SBCCI);

(XI) Excavation and Grading Code (SBCCI);

(XII) Standard Existing Buildings Code (SBCCI);

(XIII) Standard Swimming Pool Code (SBCCI); and

(XIV) Standard Unsafe Building Abatement Code (SBCCI).

(ii) The codes provided in division (i) of this subparagraph shall mean such codes as they exist on October 1, 1991, provided that the department, with the approval of the board, may adopt a subsequently published edition of any such code as provided in subsection (b) of Code Section 8-2-23; and provided, further, that any such code may hereafter be amended or revised as provided in subsection (a) of Code Section 8-2-23.

(B)(i) On or after July 1, 2004, “state minimum standard codes” means the following codes:

(I) International Building Code (ICC);

(II) National Electrical Code (NFPA);

(III) International Fuel Gas Code (ICC);

(IV) International Mechanical Code (ICC);

(V) International Plumbing Code (ICC);

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(VI) International Residential Code for One- and Two-Family Dwellings (ICC);

(VII) International Energy Conservation Code (ICC);

(VIII) International Fire Code (ICC);

(IX) International Existing Building Code (ICC);

(X) International Property Maintenance Code (ICC); and

(XI) Any other codes deemed appropriate by the board for the safety and welfare of Georgia's citizens.

(ii) The codes provided in division (i) of this subparagraph shall mean such codes as they exist on July 1, 2004, provided that the department, with the approval of the board, may adopt a subsequently published edition of any such code as provided in subsection (b) of Code Section 8-2-23; and provided, further, that any such code may hereafter be amended or revised as provided in subsection (a) of Code Section 8-2-23.

(C) References to any standard code in this part shall mean one of the standard codes listed in division (i) of subparagraph (A) or division (i) of subparagraph (B) of this paragraph.

(D) The term "state minimum standard codes" shall specifically not include the Georgia State Fire Code as adopted by the Safety Fire Commissioner pursuant to Code Section 25-2-13 nor shall any state minimum standard code be less restrictive than the Georgia State Fire Code.

§ 8-2-21. State minimum standard codes adopted and continued; enforcement of appendices

Enforcement of the state minimum standard codes provided for in divisions (9)(A)(i) and (9)(B)(i) of Code Section 8-2-20 shall not include enforcement of appendices to such codes except when:

(1) Any provision of an appendix is specifically referenced in the code text;

(2) An appendix to a code is specifically included in an administrative ordinance adopted by a municipality or county; or

(3) An appendix to a code is specifically adopted by the department with the approval of the board.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

§ 8-2-22. Licensing of trades, professions, and businesses

Provisions for licensing trades, professions, and businesses covered by the provisions of this article shall be as determined by Chapter 14 of Title 43 and the rules and regulations of the State Construction Industry Licensing Board created in such chapter.

§ 8-2-23. Revision and amendment of codes

(a)(1) The department, with the approval of the board, may from time to time revise and amend the state minimum standard codes either on its own motion or upon recommendation from any citizen, profession, state agency, or political subdivision of the state. Upon approval by a majority of the board, each such amendment, modification, or new provision shall be held to be in full force and effect as if it were included in the original adopted code. Prior to the adoption of any proposed amendment, modification, or new provision, the department shall conduct such public hearings as are required by Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," for the adoption of rules. Such public hearings shall be conducted at such places, on such dates, and at such times as may be determined by the department.

(2) Revisions of or amendments to the International Energy Conservation Code shall not become effective without the approval of the Division of Energy Resources of the Georgia Environmental Facilities Authority. The department shall consult with the division during the revision or amendment of such code and shall submit such revisions or amendments to the division for approval at least ten days prior to the adoption thereof.

(3) The department shall make copies of amendments to codes available to members of the general public at such price as it deems reasonable to defray the costs of publication and handling. Notice of amendments to or adoption of a new edition of any state minimum standard code which is applicable state wide shall be provided by the department to the chief elected official and the chief building enforcement official of a municipality or county and to the chief fire official of each fire department certified pursuant to Article 2 of Chapter 3 of Title 25 at least ten days prior to the effective date of such amendments.

(4) The revision or amendment of any of the state minimum standard codes shall have reasonable and substantial connection with the public health, safety, and general welfare.

(b)(1) The department, with the approval of the board, may adopt a new edition of any state minimum standard code either on its own motion or upon recommendation from any profession, state agency, or political subdivision of this state. Upon approval by a majority of the board, each new code edition shall be held to be in full force and effect as if it was the original adopted code. Prior to the adoption of any new edition of a state minimum standard code, the department shall conduct such public hearings as are required by Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," for the adoption of rules. Such public hearings shall be conducted at such places, on such dates, and at such times as may be determined by the department.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(2) Notwithstanding the provisions of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," or any other provision of law, the department shall not be required to make available or to distribute any copies of a new edition of a state minimum standard code adopted by the department.

§ 8-2-24. Advisory committee

(a) For the purpose of assisting the department in carrying out the provisions of Code Section 8-2-23, the commissioner shall appoint an advisory committee to be composed of 21 members as follows:

(1) The Georgia Safety Fire Commissioner or his or her designee as an ex officio member with full voting privileges;

(2) The commissioner of community health or his or her designee as an ex officio member with full voting privileges;

(3) The commissioner of community affairs or his or her designee as an ex officio member with full voting privileges;

(4) One representative of the home-building industry;

(5) One representative of the industrialized building industry;

(6) One representative of the general contracting industry;

(7) One representative of the profession of mechanical engineering;

(8) One licensed architect;

(9) One licensed electrical engineer;

(10) One representative of the manufactured homes industry;

(11) One licensed electrical contractor;

(12) One building material dealer;

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(13) One licensed plumbing contractor;

(14) One licensed conditioned-air contractor;

(15) One licensed structural engineer;

(16) Four municipal or county code enforcement officials; and

(17) Two local fire officials.

(b) All appointments to the committee shall be for a term of four years; provided, however, that the initial members appointed pursuant to paragraphs (4), (5), (6), (7), (9), (15), (16), and (17) of subsection (a) of this Code section shall be appointed for a term to expire on the same date as the terms of other members. A member shall serve until his or her successor has been duly appointed. The commissioner shall make appointments to fill the unexpired portion of any term vacated for any reason. In making such appointments, the commissioner shall preserve the composition of the committee as required by this Code section. Any appointive member who, during his or her term, ceases to meet the qualifications for original appointment shall thereby forfeit his or her membership on the committee. Membership on the committee shall not constitute public office, and no member shall be disqualified from holding public office by virtue of his or her membership. Each member of the committee shall serve without compensation, but each member of the committee shall be reimbursed for travel and other reasonable and necessary expenses incurred by him or her while attending called meetings of the committee.

(c) The advisory committee shall be empowered to use subcommittees as it deems necessary to carry out its duties and responsibilities. Members of such subcommittees shall be knowledgeable of the subject matter with which the subcommittee is concerned and shall be appointed by the commissioner upon the recommendation of the advisory committee. Such subcommittee members shall be reimbursed for travel and other necessary expenses while attending subcommittee meetings in the same manner as that of advisory committee members.

(d) Any amendments, modifications, or new provisions to the state minimum standard codes, when such are prepared, proposed, or recommended by the department, shall, prior to their submission to the board for approval, be submitted to the advisory committee for review and consideration. The department shall not forward any such amendment, modification, or new provision to the board without a favorable recommendation of a majority of the advisory committee.

(e) The advisory committee shall have at least two regular meetings annually and shall meet at other times as determined by the commissioner.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

§ 8-2-24.1. Appeal of actions of advisory committee to Board of Community Affairs

Notwithstanding the provisions of subsection (d) of Code Section 8-2-24, when any party has proposed an amendment, modification, or new provision to a state minimum standard code and the same has not received a favorable recommendation by the advisory committee, the aggrieved party may within 30 days after notification by the department of the advisory committee's action file an appeal with the board. Not more than 60 days after receiving such appeal, the board shall make a determination whether to deny the appeal or to review the proposed amendment, modification, or new provision and make a determination on the same pursuant to Code Section 8-2-23.

§ 8-2-25. Certain codes to have state-wide application; adoption of certain codes by municipalities and counties; local amendment of codes

(a) On and after July 1, 2004, the state minimum standard codes enumerated in subdivisions (9)(A)(i)(I) through (9)(A)(i) (VIII) and (9)(B)(i)(I) through (9)(B)(i)(VIII) of Code Section 8-2-20 shall have state-wide application and shall not require adoption by a municipality or county. The governing authority of any municipality or county in this state is authorized to enforce the state minimum standard codes enumerated in this subsection.

(b) The state minimum standard codes enumerated in subdivisions (9)(A)(i)(IX) through (9)(A)(i)(XIV) and (9)(B)(i)(IX) through (9)(B)(i) (XI) of Code Section 8-2-20 shall not be applicable in a jurisdiction until adopted by a municipality or county. The governing authority of any municipality or county in this state is authorized to adopt and enforce the state minimum standard codes enumerated in this subsection in that subject area which is being regulated by the municipality or county, and a copy of the local ordinance or resolution adopting any such code shall be forwarded to the department in order that such municipality or county may be apprised of subsequent amendments in the state minimum standard code so adopted.

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

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

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

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

(C) That the department has no recommendation regarding the adoption or disapproval of the proposed local amendments, due to the lack of sufficient evidence to show that such proposed local amendment would or would not be as stringent as the state minimum standard codes and the lack of sufficient evidence to show that local climatic, geologic, topographic, or public safety factors require or do not require such an amendment.

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

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

(4) No local amendment shall become effective until the local governing body has caused a copy of the adopted amendment to be filed with the department. A copy of an amendment shall be deemed to have been filed with the department when it has been placed in the United States mail, return receipt requested.

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

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

(7) At the time of issuing a building permit, the issuing county or municipality shall notify the holder of the permit of any local amendments to the state minimum standard codes which are in effect for that county or

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

municipality and that any such amendments are on file with the department. A county or municipality may satisfy this notice requirement by posting or providing a summary of the topic of such local amendment or amendments and the address and telephone number of the department.

(d) Except as otherwise provided in subsection (c) of this Code section, building related codes or ordinances dealing with the subjects of historic preservation, high-rise construction, or architectural design standards for which a state minimum standard code does not exist may be adopted by a local jurisdiction following review by the department. The department's review shall be limited to a determination that the proposed code or ordinance is consistent with the approved state minimum standard codes when common elements exist and is not less restrictive than the requirement of said codes. Changes to all other state minimum standard codes shall be approved only pursuant to the provisions of this Code section regarding local amendments.

§ 8-2-26. Enforcement of codes

(a) The governing body of any municipality or county adopting any state minimum standard code shall have the power:

(1) To adopt by ordinance or resolution any reasonable provisions for the enforcement of the state minimum standard codes, including procedural requirements, provisions for hearings, provisions for appeals from decisions of local inspectors, and any other provisions or procedures necessary to the proper administration and enforcement of the requirements of the state minimum standard codes;

(2) To provide for inspection of buildings or similar structures to ensure compliance with the state minimum standard codes;

(3) To employ inspectors, including chief and deputy inspectors, and any other personnel necessary for the proper enforcement of such codes and to provide for the authority, functions, and duties of such inspectors;

(4) To require permits and to fix charges therefor;

(5) To contract with other municipalities or counties adopting any state minimum standard code to administer such codes and to provide inspection and enforcement personnel and services necessary to ensure compliance with the codes; and

(6) To contract with any other county or municipality whereby the parties agree that the inspectors of each contracting party may have jurisdiction to enforce the state minimum standard codes within the boundaries of the other contracting party.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(b) The commissioner shall be authorized to establish a training program for local inspectors whereby a representative of the department, upon the request of the governing authority of a county or municipality, may visit such county or municipality for the purpose of training the inspectors of such county or municipality in the effective enforcement of any state minimum standard code adopted by such county or municipality. The commissioner may from time to time establish regional training programs whereby the inspectors of several different counties and municipalities may take advantage of the training made available by such regional training programs.

(c) No local inspector shall require any person performing work in compliance with a state minimum standard code or variations thereto which are in conformity with the provisions of this part to comply with the standards of any other building code not covered by this part.

(d)(1) In lieu of inspection by an inspector or other person employed by the governing authority of any county or municipality, a licensed master plumber or utility contractor shall have the option of installing a water or sewer line according to the alternative inspection procedure described in this subsection where the installation is on private property outside the building underground.

(2) If the master plumber or utility contractor elects to utilize this inspection procedure, he or she shall file with the local inspector:

(A) Notice that the water and sewer line will be installed in accordance with the International Plumbing Code and will be inspected pursuant to the alternative inspection procedure described in this subsection;

(B) A copy of his or her master plumber or utility contractor certificate issued by the State Construction Industry Licensing Board;

(C) A copy of his or her trenching competent person certificate;

(D) A certificate showing that a bond has been filed in accordance with paragraph (2) of subsection (b) of Code Section 43-14-12, except that such bond shall be in the amount of $50,000.00 and issued by a surety rated "A," "Class VI," or better by the A. M. Best Company; and

(E) Within five business days after completion of the installation, a sworn certification that the water or sewer line has been installed in accordance with the International Plumbing Code.

(3) The department shall promulgate a standard form notice and a standard form certificate that shall be used to administer this subsection. Local inspectors shall make copies of the standard forms available to contractors.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(4) The master plumber or utility contractor shall be required to pay to the governing authority the applicable permit fee.

(5) Upon submission of the certification required by this subsection, the local governing authority shall be required to accept the inspection without the necessity of further inspection or approval, except that the local governing authority may perform an inspection at any time and may issue a stop-work order if the work is found to be in violation of code requirements.

(6) Any other provision of this subsection notwithstanding, the alternative inspection procedure described in this subsection shall be applicable only to installations on private individual single-family residential property.

(e)(1) Any county or municipal building permit issued in this state to a general contractor or homebuilder for residential or commercial construction shall have prominently printed thereon at least one inch apart from any other text on such permit and in type size and boldness equal to or greater than any other type size and boldness in the body of the permit the following:

> “The issuance of this permit authorizes improvements of the real property designated herein which improvements may subject such property to mechanics' and materialmen's liens pursuant to Part 3 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated. In order to protect any interest in such property and to avoid encumbrances thereon, the owner or any person with an interest in such property should consider contacting an attorney or purchasing a consumer's guide to the lien laws which may be available at building supply home centers.”

(2) Any county or municipal construction permit, including but not limited to mechanical, plumbing, or electrical permits, issued in this state on existing residential or commercial property shall have prominently printed thereon at least one inch apart from any other text on such permit and in type size and boldness equal to or greater than any other type size and boldness in the body of the permit the following:

> “The issuance of this permit authorizes improvements of the real property designated herein which improvements may subject such property to mechanics' and materialmen's liens pursuant to Part 3 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated. In order to protect any interest in such property and to avoid encumbrances thereon, the owner or any person with an interest in such property should consider contacting an attorney or purchasing a consumer's guide to the lien laws which may be available at building supply home centers.”

(3) Any person or entity which is issued a permit which authorizes improvements to new or existing residential or commercial real property shall be required to:

(A) Post a copy of such permit in a conspicuous place in the vicinity of such property where such improve-

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

ments are being undertaken; or

(B) Deliver a copy of the permit to the property owner within ten days after the permit is received.

(f) A local inspector, including a fire service employee enforcing a state or local fire safety standard, who specifies a code violation noted during an inspection shall, upon the written request of the permit holder, cite in writing the particular code book, section, and edition of the code which is the basis of the violation.

(g)(1) If a governing authority of a county or municipality cannot provide review of the documents intended to demonstrate that the structure to be built is in compliance with the Georgia State Minimum Standard Codes most recently adopted by the Department of Community Affairs and any locally adopted ordinances and amendments to such codes within 30 business days of receiving a written application for permitting in accordance with the code official's plan submittal process or inspection services within two business days of receiving a valid written request for inspection, then, in lieu of plan review or inspection by personnel employed by such governing authority, any person, firm, or corporation engaged in a construction project which requires plan review or inspection shall have the option of retaining, at its own expense, a private professional provider to provide the required plan review or inspection. As used in this subsection, the term “private professional provider” means a professional engineer who holds a certificate of registration issued under Chapter 15 of Title 43 or a professional architect who holds a certificate of registration issued under Chapter 4 of Title 43, who is not an employee of or otherwise affiliated with or financially interested in the person, firm, or corporation engaged in the construction project to be reviewed or inspected. The local governing authority shall advise the permit applicant in writing if requested by the applicant at the time the complete submittal application for a permit in accordance with the code official's plan submittal process is received that the local governing authority intends to complete the required plan review within the time prescribed by this paragraph or that the applicant may immediately secure the services of a private professional provider to complete the required plan review pursuant to this subsection. The plan submittal process shall include those procedures and approvals required by the local jurisdiction before plan review can take place. If the local governing authority states its intent to complete the required plan review within the time prescribed by this paragraph, the applicant shall not be authorized to use the services of a private professional provider as provided in this subsection. The permit applicant and the local governing authority may agree by mutual consent to extend the time period prescribed by this paragraph for plan review if the characteristics of the project warrant such an extension. However, if the local governing authority states its intent to complete the required plan review within the time prescribed by this paragraph, or any extension thereof mutually agreed to by the applicant and the governing authority, and does not permit the applicant to use the services of a private professional provider and the local governing authority fails to complete such plan review in the time prescribed by this paragraph, or any extension thereof mutually agreed to by the applicant and the governing authority, the local governing authority shall issue the applicant a project initiation permit. The local governing authority shall be allowed to limit the scope of a project initiation permit and limit the areas of the site to which the project initiation permit may apply but shall permit the applicant to begin work on the project, provided that portion of the initial phase of work is compliant with applicable codes, laws, and rules. If a full permit is not issued for the portion requested for permitting, then the governing authority shall have an additional 20 business days to complete the review and issue the full permit. If the plans submitted for permitting are denied for any deficiency, the time frames

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

and process for resubmittal shall be governed by subparagraphs (C) through (E) of paragraph (7) of this subsection. On or before July 1, 2007, the Board of Natural Resources shall adopt rules and regulations governing the review of erosion and sedimentation control plans under Part 9 of Chapter 7 of Title 12 to establish appropriate time frames for the submission and review of revised plan submittals where a deficiency or deficiencies in the submitted plans have been identified by the governing authority.

(2) Any plan review or inspection conducted by a private professional provider shall be no less extensive than plan reviews or inspections conducted by county or municipal personnel.

(3) The person, firm, or corporation retaining a private professional provider to conduct a plan review or an inspection shall be required to pay to the county or municipality which requires the plan review or inspection the same regulatory fees and charges which would have been required had the plan review or inspection been conducted by a county or municipal inspector.

(4) A private professional provider performing plan reviews under this subsection shall review construction plans to determine compliance with the Georgia State Minimum Standard Codes most recently adopted by the Department of Community Affairs and any locally adopted ordinances and amendments to such codes. Upon determining that the plans reviewed comply with the applicable codes, such private professional provider shall prepare an affidavit or affidavits on a form adopted by the Department of Community Affairs certifying under oath that the following is true and correct to the best of such private professional provider's knowledge and belief and in accordance with the applicable professional standard of care:

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

(B) The plans comply with the Georgia State Minimum Standard Codes most recently adopted by the Department of Community Affairs and any locally adopted ordinances and amendments to such codes; and

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

(5) All private professional providers providing plan review or inspection services pursuant to this subsection shall secure and maintain insurance coverage for professional liability (errors and omissions) insurance. The limits of such insurance shall be not less than $1 million per claim and $1 million in aggregate coverage. Such insurance may be a practice policy or project-specific coverage. If the insurance is a practice policy, it shall contain prior acts coverage for the private professional provider. If the insurance is project-specific, it shall continue in effect for two years following the issuance of the certificate of final completion for the project. A

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

local enforcement agency, local building official, or local government may establish, for private professional providers working within that jurisdiction, a system of registration listing the private professional providers within their areas of competency and verifying compliance with the insurance requirements of this subsection.

(6) The private professional provider shall be empowered to perform any plan review or inspection required by the governing authority of any county or municipality, including, but not limited to, inspections for footings, foundations, concrete slabs, framing, electrical, plumbing, heating ventilation and air conditioning (HVAC), or any and all other inspections necessary or required for the issuance of a building permit or certificate of occupancy by the governing authority of any county or municipality, provided that the plan review or inspection is within the scope of such private professional provider's area of competency. Nothing in this Code section shall authorize any private professional provider to issue a certificate of occupancy. Only a local governing authority shall be authorized to issue a certificate of occupancy.

(7)(A) The permit applicant shall submit a copy of the private professional provider's plan review report to the county or municipality. Such plan review report shall include at a minimum all of the following:

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

(ii) The applicable fees; and

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

(B) No more than 30 business days after receipt of a permit application and the affidavit from the private professional provider required pursuant to this subsection, the local building official shall issue the requested permit or provide written notice to the permit applicant identifying the specific plan features that do not comply with the applicable codes, as well as the specific code chapters and sections. If the local building official does not provide a written notice of the plan deficiencies within the prescribed 30 day period, the permit application shall be deemed approved as a matter of law and the permit shall be issued by the local building official on the next business day.

(C) If the local building official provides a written notice of plan deficiencies to the permit applicant within the prescribed 30 day period, the 30 day period shall be tolled pending resolution of the matter. To resolve the plan deficiencies, the permit applicant may elect to dispute the deficiencies pursuant to this subsection or to submit revisions to correct the deficiencies.

(D) If the permit applicant submits revisions to address the plan deficiencies previously identified, the local building official shall have the remainder of the tolled 30 day period plus an additional five business days to issue the requested permit or to provide a second written notice to the permit applicant stating which of the

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

previously identified plan features remain in noncompliance with the applicable codes, with specific reference to the relevant code chapters and sections. If the local building official does not provide the second written notice within the prescribed time period, the permit shall be issued by the local building official on the next business day. In the event that the revisions required to address the plan deficiencies or any additional revisions submitted by the applicant require that new governmental approvals be obtained, the applicant shall be required to obtain such approvals before a new plan report can be submitted.

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

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

(9) A local governing authority may provide for the prequalification of private professional providers who may perform plan reviews or inspections pursuant to this subsection. No ordinance implementing prequalification shall become effective until notice of the governing authority's intent to require prequalification and the specific requirements for prequalification have been advertised in the newspaper in which the sheriff's advertisements for that locality are published. The ordinance implementing prequalification shall provide for evaluation of the qualifications of a private professional provider only on the basis of the private professional provider's expertise with respect to the objectives of this subsection, as demonstrated by the private professional provider's experience, education, and training. Such ordinance may require a private professional provider to hold additional certifications, provided that such certifications are required by ordinance for plan review personnel currently directly employed by such local governing authority.

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

(11) This subsection shall not apply to hospitals, ambulatory health care centers, nursing homes, jails, penal institutions, airports, buildings or structures that impact national or state homeland security, or any building defined as a high-rise building in the State Minimum Standards Code; provided, however, that interior tenant

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

build-out projects within high-rise buildings are not exempt from this subsection.

(12) If the local building official determines that the building construction or plans do not comply with the applicable codes, the official may deny the permit or request for a certificate of occupancy or certificate of completion, as appropriate, or may issue a stop-work order for the project or any portion thereof as provided by law, after giving notice to the owner, the architect of record, the engineer of record, or the contractor of record and by posting a copy of the order on the site of the project and opportunity to remedy the violation within the time limits set forth in the notice, if the official determines noncompliance with state or local laws, codes, or ordinances, provided that:

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

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

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

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

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

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

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

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

§ 8-2-26.1. Qualified inspectors

(a) As used in this Code section, the term:

(1) “ICC” means the International Code Council.

(2) “Qualified inspector” means:

(A) A person inspecting for compliance with the International Building Code or the building portion of the International Residential Code for One- and Two-Family Dwellings who holds a certification from the ICC as a building inspector;

(B) A person inspecting for the compliance of residential buildings with the National Electrical Code or the electrical portion of the International Residential Code for One- and Two-Family Dwellings who holds a certification from the ICC as a residential electrical inspector or an electrical contractor license from the State Construction Industry Licensing Board;

(C) A person inspecting for the compliance of nonresidential buildings with the National Electrical Code who holds a certification from the ICC as a commercial electrical inspector or an electrical contractor license from the State Construction Industry Licensing Board;

(D) A person inspecting for compliance with the International Fuel Gas Code who holds a certification from the ICC as a mechanical inspector or plumbing inspector or a conditioned air contractor, journeyman plumber, or master plumber license from the State Construction Industry Licensing Board;

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(E) A person inspecting for compliance with the International Mechanical Code or the mechanical portion of the International Residential Code for One- and Two-Family Dwellings who holds a certification from the ICC as a mechanical inspector or a conditioned air contractor license from the State Construction Industry Licensing Board;

(F) A person inspecting for compliance with the International Plumbing Code or the plumbing portion of the International Residential Code for One- and Two-Family Dwellings who holds a certification from the ICC as a plumbing inspector or a journeyman plumber or master plumber license from the State Construction Industry Licensing Board;

(G) A person inspecting for compliance with any portion of the International Residential Code for One- and Two-Family Dwellings who holds a certification from the ICC as a one and two-family dwelling inspector;

(H) A person inspecting for compliance with the International Energy Conservation Code for Buildings who has completed eight hours of training that is conducted or approved by the department; or

(I) A person inspecting for compliance with any of the codes listed in subparagraphs (A) through (H) of this paragraph who holds a certificate of registration as a professional engineer issued under Chapter 15 of Title 43 and is practicing within the scope of his or her branch of engineering expertise while conducting such inspection.

(3) “State Construction Industry Licensing Board” means that board created pursuant to Code Section 43-14-3.

(b) The governing authority of any municipality or county which has adopted provisions for the enforcement of the state minimum standard codes shall post a notice stating whether the personnel employed by that governing authority to conduct inspections for compliance with such codes are qualified inspectors. Such notice shall separately address each minimum standard code enumerated in subdivisions (9)(A)(i)(I) through (9)(A)(i)(VIII) or (9)(B)(i)(I) through (9)(B)(i)(VIII) of Code Section 8-2-20 and the building, electrical, mechanical, and plumbing portions of the International Residential Code for One- and Two-Family Dwellings, and state whether all personnel assigned to conduct inspections for the particular code or portion of the code are qualified inspectors for that code or portion of the code.

(c) If such notice states that not all personnel assigned to conduct inspections for a particular state minimum standard code or portion of such code are qualified inspectors for that code or portion of the code, then the governing authority may retain qualified inspectors not employed by the governing authority to conduct inspections. If the governing authority does not so retain qualified inspectors, then any person, firm, or corporation engaged in a construction project which requires inspection shall have the option of retaining, at its own expense, a person who is a qualified inspector for that code or portion of the code and who is not an employee

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

of or otherwise affiliated with or financially interested in such person, firm, or corporation to provide the required inspection.

(d) The person, firm, or corporation retaining a qualified inspector to conduct an inspection pursuant to this Code section shall be required to pay to the county or municipality which requires the inspection the same permit fees and charges which would have been required had the inspection been conducted by a county or municipal inspector.

(e) A qualified inspector retained pursuant to this Code section shall be empowered to perform any inspection required by the governing authority of any county or municipality, including but not limited to inspections for footings, foundations, concrete slabs, framing, electrical, plumbing, heating ventilation and air conditioning (HVAC), or any and all other inspections necessary or required for the issuance of a certificate of occupancy by the governing authority of any county or municipality; provided, however, that the qualified inspector must possess the qualifications described in paragraph (2) of subsection (a) of this Code section for the particular type of inspection. Any inspection conducted pursuant to this Code section shall be no less extensive than an inspection conducted by a county or municipal inspector.

(f) Upon submission by the qualified inspector of a copy of his or her inspection report to the local governing authority, said local governing authority shall be required to accept the inspection of the qualified inspector without the necessity of further inspection or approval by the inspectors or other personnel employed by the local governing authority unless said governing authority has notified the qualified inspector, within two business days after the submission of the inspection report, that it finds the report incomplete or the inspection inadequate and has provided the qualified inspector with a written description of the deficiencies and specific code requirements that have not been adequately addressed.

(g) Nothing in this Code section shall be construed to apply to inspections for compliance with a state or local fire safety standard or erosion control standard.

(h) Nothing in this Code section shall be construed to limit any public or private right of action designed to provide protection, rights, or remedies for consumers.

§ 8-2-27. Application of International Energy Conservation Code

(a) The design, erection, construction, and alteration of any building to which the International Energy Conservation Code shall apply shall be accomplished so that the building or applicable portions thereof shall meet or conform to such code.

(b) Enforcement of compliance with this Code section shall be solely the province of local governing authorities, except in regard to buildings owned by the state. In state owned buildings, the state agency which owns

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

the building shall provide for the compliance with the code adopted under this part. Local governing authorities are authorized to adopt rules and regulations for the administration and enforcement of the code and to adopt such penalties for violation of the code as they deem appropriate. Local governing authorities are authorized to exercise all the powers enumerated in subsection (a) of Code Section 8-2-26 in enforcement of the International Energy Conservation Code.

(c) The International Energy Conservation Code shall not apply to exempted buildings; and, with respect to renovated buildings, such code shall apply only to portions or systems of the building which are directly involved in the renovation.

(d) The commissioner or his or her designated representative shall have authority to hear appeals relating to the interpretation, enforcement, and administration by local governing authorities of the International Energy Conservation Code and exceptions to such code. The commissioner may, at his or her option, hear de novo cases but shall not hear any appeal until it is determined that the appeal procedures available through the affected local government have been exhausted. If, on appeal, the commissioner determines that the local governing authority erred in its interpretation of the code, he or she shall remand the case to the local government with instructions to take such action as he or she directs. Further appeals may be made as provided by Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

§ 8-2-28. Utilization of minimum standard codes by municipalities and counties

Any municipality or county either enforcing or adopting and enforcing a construction code shall utilize one or more of the state minimum standard codes established pursuant to this part.

§ 8-2-29. Powers and duties of department

In addition to any other powers granted by this part, the department shall have the power to:

(1) Administer all funds available under this part;

(2) Accept any grant of funds made by the United States government or any agency thereof for the purpose of carrying out this part;

(3) Request from the various departments, agencies, and authorities of the state and its political subdivisions such available information as it may require in its work; and all such departments, agencies, and authorities shall furnish, within a reasonable time, such requested available information to the department;

(4) Contract with the United States government or agencies thereof, with political subdivisions of the state,

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

and with private persons and corporations; and

(5) Do all other things necessary and proper to exercise its powers and perform its duties in accordance with this part.

§ 8-2-30. Application of part

(a) Except as otherwise provided in this Code section, this part shall apply to all installations, alterations, and repairs of plumbing, air-conditioning and heating, or electrical systems within or on public or private buildings, structures, or premises.

(b) This part shall not apply to the installation, alteration, or repair of plumbing, air-conditioning and heating, or electrical systems up to and including the meters, where such work is performed by or is an integral part of the system owned or operated by a public service corporation or by the water or gas department of any city in this state in rendering its duly authorized service as such.

(c) This part shall not apply to the installation, alteration, or repair of plumbing, air-conditioning and heating, or electrical systems where such work is an integral part of the system owned or operated, in rendering its duly authorized service as such, by a railroad company, a pipeline company, a mining company, or a public utility in the exercise of its normal functions as a public utility, or where such work is an integral part of any irrigation system on farms, ranches, or other open, unpopulated areas where such work will not be located within 30 feet of any dwelling or any building devoted to animal husbandry.

(d) This part shall not prohibit an individual from installing, altering, or repairing plumbing systems and fixtures, air-conditioning and heating systems and fixtures, or electrical systems in a single-family dwelling owned and occupied by him or her, provided that all such work must be done in conformity with all other provisions of this part and the orders, rules, and regulations of the department.

(e) This part shall not prohibit an individual from installing, altering, or repairing plumbing systems and fixtures, air-conditioning and heating systems and fixtures, or electrical systems in a farm or ranch building owned or occupied by him or her, provided that all such work must be done in conformity with all other provisions of this part and the orders, rules, and regulations of the department.

(f) This Code section shall not affect or abrogate the requirements of the International Energy Conservation Code.

§ 8-2-31. Construction of law

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(a) Nothing in this part shall repeal or be construed as abrogating or otherwise affecting the power of any state department or agency to promulgate regulations, make inspections, or approve plans in accordance with any other applicable provisions of law.

(b) Nothing in this part shall be construed as repealing or otherwise affecting authorization for historic preservation districts established pursuant to Article 2 of Chapter 10 of Title 44, the "Georgia Historic Preservation Act."

(c) Nothing in this part shall be construed as repealing or otherwise affecting:

(1) Part 6 of this article, relating to elevators, dumbwaiters, escalators, manlifts, and moving walks;

(2) Chapter 11 of Title 34, the "Boiler and Pressure Vessel Safety Act";

(3) Chapter 3 of Title 30, relating to access to and use of public facilities by physically disabled persons; or

(4) The Georgia State Fire Code as adopted by the Safety Fire Commissioner pursuant to Code Section 25-2-13.

(d) Standards for the construction of manufactured homes covered under Part 2 of Article 2 of this chapter shall be governed by the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. Section 5401, et seq., and nothing in this part is intended to permit the adoption of any other standards for or local regulation of the construction of manufactured homes.

(e) Standards relative to liquefied petroleum gas shall be governed by Article 10 of Chapter 1 of Title 10 and no provision of this part shall be construed to permit the adoption of standards, rules, or regulations relative to liquefied petroleum gas by the Department of Community Affairs or the adoption by local governments of regulations or ordinances relative to liquefied petroleum gas in conflict with Article 10 of Chapter 1 of Title 10.

§ 8-2-35. Legislative findings

The legislature finds, declares, and determines that Georgia needs an alternative method to resolve legitimate construction disputes that would reduce the need for litigation while adequately protecting the rights of homeowners. The legislature declares that an effective alternative dispute resolution mechanism in certain construction defect matters should involve the claimant filing a notice of claim with the contractor that the claimant asserts is responsible for the defect and providing the contractor with the opportunity to resolve the claim without litigation.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

§ 8-2-36. Definitions

As used in this part, the term:

(1) “Action” means any civil lawsuit, judicial action, or arbitration proceeding asserting a claim in whole or in part for damages or other relief in connection with a dwelling or common area caused by an alleged construction defect.

(2) “Association” means a corporation formed for the purpose of exercising the powers of the members of any common interest community.

(3) “Claimant” means anyone who asserts a claim concerning a construction defect.

(4) “Common area” means the common areas, improvements, and facilities that are owned or maintained by the association in a common interest community.

(5) “Construction defect“ has the meaning assigned by a written, express warranty either provided by the contractor or required by applicable statutory law; if no written, express warranty or applicable statutory warranty provides a definition, then “construction defect” means a matter concerning the design, construction, repair, or alteration of a dwelling or common area, of an alteration of or repair or addition to an existing dwelling, or of an appurtenance to a dwelling or common area on which a person has a complaint against a contractor. The term may include any physical damage to the dwelling or common area, any appurtenance, or the real property on which the dwelling or appurtenance is affixed proximately caused by a construction defect.

(6) “Contractor” means any person, firm, partnership, corporation, association, or other organization that is engaged in the business of designing, developing, constructing, or selling dwellings or common areas, alterations of or additions to existing dwellings or common areas, or the repair of such improvements. The term includes:

(A) An owner, officer, director, shareholder, partner, or employee of the contractor;

(B) Subcontractors and suppliers of labor and materials used by a contractor in a dwelling or common area; and

(C) A risk retention group registered under applicable law, if any, that insures all or any part of a contractor's liability for the cost to repair a construction defect.

(7) “Dwelling” means a single-family house, duplex, or multifamily unit designed for residential use in which

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

title to each individual residential unit is transferred to the owner under a condominium or cooperative system. A dwelling includes the systems, other components, improvements, other structures, or recreational facilities that are appurtenant to the house, duplex, or multifamily unit at the time of its initial sale but not necessarily a part of the house, duplex, or multifamily unit.

(8) “Serve” or “service” means deposit in the United States mail, postage prepaid for delivery by certified mail, return receipt requested or statutory overnight delivery to the last known address of the addressee. For a corporation, limited partnership, limited liability company, or other registered business organization, it means service on the registered agent or other agent for service of process authorized by law.

§ 8-2-37. Stay of proceedings

If a claimant files an action without first complying with the requirements of this part, on application by a party to the action, the court or arbitrator shall stay the action until the claimant has complied with the requirements of this part. To the extent that the action includes a cause of action for damages due to personal injury or death, such cause of action shall not be subject to stay pursuant to this Code section.

§ 8-2-38. Procedure; notice; response; settlement offers; inspections

(a) In every action subject to this part, the claimant shall, no later than 90 days before initiating an action against a contractor, provide service of written notice of claim on that contractor. The notice of claim shall state that the claimant asserts a construction defect claim or claims and is providing notice of the claim or claims pursuant to the requirements of this part. The notice of claim shall describe the claim or claims in detail sufficient to explain the nature of the alleged construction defects and the results of the defects. In addition, the claimant shall provide to the contractor any evidence that depicts the nature and cause of the construction defect, including expert reports, photographs, and videotapes, if that evidence would be discoverable under evidentiary rules.

(b) Within 30 days after service of the notice of claim by a claimant required in subsection (a) of this Code section, each contractor that has received the notice of claim shall serve on the claimant, and on any other contractor that has received the notice of claim, a written response to the claim or claims, which either:

(1) Offers to settle the claim by monetary payment, the making of repairs, or a combination of both, without inspection; or

(2) Proposes to inspect the dwelling or common area that is the subject of the claim.

(c) If the contractor wholly rejects the claim and will neither remedy the alleged construction defect nor settle

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

the claim or does not respond to the claimant's notice of claim within the time stated in subsection (b) of this Code section, the claimant may bring an action against the contractor for the claims described in the notice of claim without further notice except as otherwise provided under applicable law. A contractor that does not respond to a notice of claim within the time prescribed by subsection (b) of this Code section may not claim or assert that the absence of documents required to be provided with the notice of claim under subsection (a) of this Code section relieved the contractor from the contractor's obligation to respond to the notice of claim.

(d) If the claimant rejects the settlement offer made by the contractor, the claimant shall provide written notice of the claimant's rejection to the contractor and, if represented by legal counsel, his or her attorney. The notice shall include the reasons for the claimant's rejection of the contractor's proposal or offer. If the claimant believes that the settlement offer:

(1) Omits reference to any portion of the claim; or

(2) Was unreasonable in any manner,

the claimant shall in his or her written notice include those items that claimant believes were omitted and set forth in detail all known reasons why the claimant believes the settlement offer is unreasonable.

(e) If a proposal for inspection is made pursuant to paragraph (2) of subsection (b) of this Code section, the claimant shall, within 30 days of receiving the contractor's proposal, provide the contractor and its subcontractors, agents, experts, and consultants prompt and reasonable access to the dwelling or common area to inspect the dwelling or common area, document any alleged construction defects, and perform any destructive or nondestructive testing required to fully and completely evaluate the nature, extent, and cause of the claimed defects and the nature and extent of any repairs or replacements that may be necessary to remedy the alleged defects. If destructive testing is required, the contractor shall give claimant advance notice of such tests and shall, after completion of the testing, return the dwelling or common area to its pretesting condition. If any inspection or testing reveals a condition that requires additional testing to allow the contractor to fully and completely evaluate the nature, cause, and extent of the construction defect, the contractor shall provide notice to the claimant of the need for such additional testing and the claimant shall provide prompt and reasonable access as set forth in this Code section. If a claim is asserted on behalf of owners of multiple dwellings or multiple owners of units within a multifamily complex, the contractor shall be entitled to inspect each of the dwellings or common areas which may be or appear to be affected by the alleged defect. The contractor shall commence and diligently pursue completion of all the desired inspections within the 30 day period after delivery of the contractor's written proposal. Inspection shall be completed within the same 30 day period if reasonable or within a reasonable period thereafter if completion is not reasonable within 30 days.

(f) Within 14 days following completion of the inspection and testing set forth in this Code section, the contractor shall serve on the claimant:

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(1) A written offer to fully or partially remedy the construction defect at no cost to the claimant. Such offer shall include a description of any additional construction necessary to remedy the defect described in the claim and an anticipated timetable for the completion of such construction;

(2) A written offer to settle the claim by monetary payment;

(3) A written offer including a combination of repairs and monetary payment; or

(4) A written statement that the contractor will not proceed further to remedy the defect, along with the reasons for such rejection.

(g) If a claimant accepts a contractor's offer made pursuant to paragraph (1), (2), or (3) of subsection (f) of this Code section and the contractor does not proceed to make the monetary payment or remedy the construction defect or both within the agreed timetable, the claimant may bring an action against the contractor for the claim described in the notice of claim without further notice except as otherwise provided by applicable law. In such a situation, the claimant may also file the contractor's offer and claimant's acceptance, and such offer and acceptance will create a rebuttable presumption that a binding and valid settlement agreement has been created and should be enforced by the court or arbitrator.

(h) If a claimant receives a written statement that the contractor will not proceed further to remedy the defect or if the contractor fails to serve the claimant with the required written offer or written statement within the time prescribed by subsection (f) of this Code section, the claimant may bring an action against the contractor for the claim described in the notice of claim without further notice except as otherwise provided by applicable law. The contractor's written statement shall include all known reasons for the rejection of the claim.

(i) If the claimant rejects the offer made by the contractor to remedy the construction defect or to settle the claim by monetary payment or a combination of each, the claimant shall serve written notice of the claimant's rejection on the contractor. The notice shall include all known reasons for the claimant's rejection of the contractor's offer.

(j) Upon receipt of a claimant's rejection and the reasons for such rejection, the contractor may, within 15 days of receiving the rejection, make a supplemental offer of repair or monetary payment or both to the claimant.

(k) If the claimant rejects the supplemental offer made by the contractor to repair the construction defect or to settle the claim by monetary payment or a combination of each, the claimant shall serve written notice of the claimant's rejection on the contractor. The notice shall include all known reasons for the claimant's rejection of the contractor's supplemental settlement offer.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(l) If a claimant rejects a reasonable offer, including any reasonable supplemental offer, made as provided by this part or does not permit the contractor to repair the construction defect pursuant to an accepted offer of settlement, the claimant may not recover an amount in excess of:

(1) The fair market value of the offer of settlement or the actual cost of the repairs made; or

(2) The amount of a monetary offer of settlement.

For purposes of this subsection, the trier of fact shall determine the reasonableness of an offer of settlement made pursuant to this part. If the claimant has rejected a reasonable offer, including any reasonable supplemental offer, and any other law allows the claimant to recover costs and attorneys' fees, then the claimant may recover no costs or attorneys' fees incurred after the date of his or her rejection.

(m) Any claimant accepting the offer of the contractor to remedy a construction defect shall do so by serving the contractor with a written notice of acceptance within 30 days after receipt of the offer. If no response is served upon the contractor within the 30 day period, then the offer shall be deemed accepted.

(n) If a claimant accepts a contractor's offer to repair a construction defect described in a notice of claim, the claimant shall provide the contractor and its subcontractors, agents, experts, and consultants prompt and unfettered access to the dwelling or common area to perform and complete the construction by the timetable stated in the settlement offer.

(o) If, during the pendency of the notice, inspection, offer, acceptance, or repair process, an applicable limitations period would otherwise expire, the claimant may file an action against the contractor, but such action shall be immediately stayed until completion of the notice of claim process described in this part. This subsection shall not be construed to:

(1) Revive a statute of limitations period that has expired prior to the date on which a claimant's written notice of claim is served; or

(2) Extend any applicable statute of repose.

(p) After the sending of the initial notice of claim, a claimant and a contractor may, by written mutual agreement, alter the procedure for the notice of claim process described in this part.

§ 8-2-39. Notice of additional construction defects; amending pending action

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(a) A construction defect that is discovered after a claimant has provided a contractor with the initial claim notice may not be alleged in an action until the claimant has given the contractor who performed the original construction:

(1) Written notice of claim regarding the alleged defect as required by Code Section 8-2-38; and

(2) An opportunity to resolve the notice of claim in the manner provided in Code Section 8-2-38.

(b) A construction defect that is discovered during the pendency of an action filed in compliance with this part may be added as a supplemental or additional claim to the pending action if failure to add the claim would prejudice any legal rights of the claimant or the contractor; provided, however, that the claimant shall comply with the requirements of subsection (a) of this Code section, and such action shall be immediately stayed until completion of the notice of claim process, unless otherwise agreed by the parties.

§ 8-2-40. Acceptance of offer; future claims barred; subrogation of insurer

(a) If a claimant accepts an offer made in compliance with this part and the contractor fulfills the offer in compliance with this part:

(1) The claimant shall thereafter be barred from bringing an action for the claim described in the notice of claim; and

(2) A contractor's performance of repairs or payment of money to a claimant made pursuant to this Code section shall not, by itself, create insurance coverage or otherwise affect the mutual rights and obligations of the parties under a contractor's liability insurance policy or, by itself, be considered a voluntary payment of an otherwise valid insured loss.

(b) An insurer paying a claim under this part shall be subrogated to the rights of the claimant to whom the amounts were paid against the person causing the construction defect, damages, or other reason for payment to the extent that claim payments were made, except that the insurer shall be required to pay any applicable part of costs, expenses, and attorneys' fees incurred in connection therewith.

§ 8-2-41. Notice of alternative dispute requirements

(a) Upon entering into a contract for sale, construction, or improvement of a dwelling, the contractor shall provide notice to the owner of the dwelling of the contractor's right to resolve alleged construction defects before a claimant may commence litigation against the contractor. Such notice shall be conspicuous and may be included as part of the contract.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(b) The notice required by subsection (a) of this Code section shall be in substantially the following form:

GEORGIA LAW CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT OR OTHER ACTION FOR DEFECTIVE CONSTRUCTION AGAINST THE CONTRACTOR WHO CONSTRUCTED, IMPROVED, OR REPAIRED YOUR HOME. NINETY DAYS BEFORE YOU FILE YOUR LAWSUIT OR OTHER ACTION, YOU MUST SERVE ON THE CONTRACTOR A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE. UNDER THE LAW, A CONTRACTOR HAS THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS OR BOTH. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY A CONTRACTOR. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT YOUR ABILITY TO FILE A LAWSUIT OR OTHER ACTION.

§ 8-2-42. Action of association; violations

(a) A person shall not provide or offer to provide anything of value, directly or indirectly, to a property manager of an association or to a member or officer of an association to induce the property manager, member, or officer to encourage or discourage the association to file a claim for damages arising from a construction defect. As used in this Code section, the term “anything of value” shall not include payments, services, or other items of value which the recipient would otherwise be entitled to receive under an existing contract.

(b) A property manager retained by an association shall not accept anything of value, directly or indirectly, in exchange for encouraging or discouraging the association that he or she manages to file a claim for damages arising from a construction defect.

(c) A member or officer of an association shall not accept anything of value, directly or indirectly, in exchange for encouraging or discouraging the association of which he or she is a member or officer to file a claim for damages arising from a construction defect.

(d) A person who knowingly violates subsection (a), (b), or (c) of this Code section shall be guilty of a misdemeanor.

(e) An association may bring an action against a contractor to recover damages resulting from construction defects in the common area of a common interest community, provided that:

(1) The members of the association have voted to approve commencement of an action by two-thirds of the votes cast, by statutory written ballot as provided in Code Section 14-3-708 or have approved commencement of an action by the affirmative vote of at least two-thirds of the total membership at a meeting of the members at which a quorum is present;

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(2) The board of directors of the association and the contractor have met in person and conferred in a good faith attempt to resolve the association's claim, or the contractor has definitively declined or ignored the requests to meet with the board of directors of the association; and

(3) The association has otherwise satisfied all of the preaction requirements for a claimant to commence an action as set forth in this part.

(f) At least three business days in advance of the meeting at which the association members vote or at the time a statutory written ballot is circulated to the members to obtain approval of an action to recover damages resulting from construction defects in the common area of a common interest community, the association shall provide each owner a copy of the notice of claim provided to the contractor and an additional written description of claims and the reasons the board of the association is recommending consideration of the litigation.

(g) An association or an attorney for an association shall not employ a person to perform destructive tests to determine any damage or injury to a dwelling or common area caused by a construction defect unless:

(1) The person is licensed as a contractor pursuant to law;

(2) The association has obtained the prior written approval of each owner whose dwelling will be directly affected by such testing;

(3) The association or the person so employed obtains all permits required to conduct such tests and to repair any damage resulting from such tests; and

(4) Reasonable prior notice and opportunity to observe the tests is given to the contractor against whom an action may be brought as a result of the tests.

(h) The board of directors of an association may, without giving notice to the owners, employ a contractor and such other persons as are necessary to make such immediate repairs to a common area within the common interest community as are required to protect the health, safety, and welfare of the owners.

§ 8-2-43. Cause of action not created; application to other rights; contract governs; license required

(a) Nothing in this part shall create any cause of action on behalf of any claimant or contractor.

(b) This part does not apply to a contractor's right to seek contribution, indemnity, or recovery against a subcontractor, supplier, or design professional for any claim made against a contractor by a claimant.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(c) In the event of any conflict or inconsistency between the provisions of this part and the provisions of any contract between a claimant and a contractor, the provisions of the contract shall govern and control.

(d) This part shall not apply to a contractor who is not required to be licensed under Chapter 41 of Title 43.

§ 8-2-50. Fire escapes; main doors to open outwardly; means for extinguishing fires

(a) Owners of buildings more than two stories in height, not including the basement, who utilize any level above the second story wholly or partially as a factory or workshop shall provide more than one exit from each story of the building above the second story by stairways on the inside or outside of the building.

(b) Such stairways shall be, as nearly as is practicable, at opposite ends of each story and so constructed that, in case of fire, the ground can readily be reached from the third and higher stories.

(c) All stairways on the outside of buildings covered by this Code section shall have suitable railed landings at each story above the first and shall connect with each of said stories by doors or windows opening outward; and such doors, windows, and landings shall at all times be kept clear of obstructions.

(d) All the main doors of such buildings, both inside and outside, shall open outward, and each story shall be amply supplied with fire-extinguishing devices.

§ 8-2-51. Examination of buildings

(a) The governing authority of the city where any building covered by Code Section 8-2-50 is situated, or the judge of the probate court of the county if the building is situated outside of any city, shall require the fire marshal or chief officer of the fire department or, if there is no fire marshal or chief firefighter, some other suitable official to inspect such buildings at least once a year and report in writing to the municipal authorities or the judge of the probate court that the requirements of Code Section 8-2-50 have or have not been complied with.

(b) If the requirements of Code Section 8-2-50 have not been complied with, the municipal authorities or the judge of the probate court, as the case may be, shall convey to the owner of such building written notice requiring him to provide needed alterations or additions.

§ 8-2-52. Alteration of buildings to meet requirements. Examination and report made, when

The owners of buildings referred to in this part shall make all alterations or additions necessary to comply

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

with the requirements of this part. Inspections and reports required by Code Section 8-2-51 shall be made during the month of December of each year.

§ 8-2-53. Authority of municipal authorities

The governing authority of any city may, by ordinance, provide that this part shall apply to all buildings within the city limits which are not used as private residences and which are three or more stories in height.

§ 8-2-54. Failure to comply with requirements as to buildings more than two stories in height

Any owner of a building more than two stories in height who fails to comply with the requirements of this part and who, after receiving the notice prescribed in Code Section 8-2-51, refuses or neglects to make the alterations specified in the written notice shall be guilty of a misdemeanor.

§§ 8-2-70 to 8-2-75. Repealed by Laws 1984, p. 1227, § 2, eff. July 1, 1984

§§ 8-2-70 to 8-2-75. Repealed by Laws 1984, p. 1227, § 2, eff. July 1, 1984

§ 8-2-90. Definitions

As used in this part, the term:

(1) “Fabricator” means a person who fabricates, assembles, or glazes from component parts such structures or products commonly known as sliding glass doors, entrance doors, adjacent fixed glazed panels, storm doors, shower doors, bathtub enclosures, fixed glazed panels, or other glazed structures to be used or installed in hazardous locations.

(2)(A) “Hazardous locations” means for the purpose of glazing:

(i) Glazing in ingress and egress doors, except wired glass in required fire doors and jalousies;

(ii) Glazing in fixed and sliding panels of sliding type doors (patio and mall type);

(iii) Glazing in storm doors;

(iv) Glazing in all unframed swinging doors;

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(v) Glazing in shower and bathtub doors and enclosures;

(vi) Glazing, operable or inoperable, adjacent to a door in all buildings and within the same wall plane as the door whose nearest vertical edge is within 12 inches of the door in a closed position and whose bottom edge is less than 60 inches above the floor or walking surface;

(vii) Glazing in fixed panels having a glazed area in excess of nine square feet with the lowest edge less than 18 inches above the finish floor level or walking surface within 36 inches of such glazing. In lieu of safety glazing, such glazed panels may be protected with a horizontal member not less than one and one-half inches wide when located between 24 and 36 inches above the walking surface; or

(viii) All doors, windows, and mirrors on public buses and trains.

(B) The following products, materials, and uses shall not be included in the definition of the term “hazardous locations”:

(i) Openings in doors through which a three-inch sphere is unable to pass;

(ii) Leaded glass panels where no individual piece of glass has an area greater than 30 square inches;

(iii) Glazing materials used as curved glass panels in revolving doors;

(iv) Commercial refrigerated cabinet glazed doors; or

(v) Faceted and decorative glass.

(3) “Installer” means those persons who or those concerns which install glazing materials or build structures containing glazing materials in hazardous locations.

(4) “Manufacturer” means a person who manufactures safety glazing material.

(5) “Safety glazing material” means any glazing material, such as tempered glass, laminated glass, wire glass, or rigid plastic, which meets the requirements of the USA Standard Z-97.1-1966 or such requirements as are or may be hereafter adopted by the Georgia Department of Labor and which are constructed, treated, or combined with other materials in such a manner as to minimize the likelihood of cutting and piercing injuries resulting from human contact with the glazing material.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

§ 8-2-91. Unlawful not to use safety glazing material

It shall be unlawful, for use in the State of Georgia, knowingly to sell, fabricate, assemble, glaze, install, or consent to be installed any glazed structure, product, or material to be used in any hazardous location if said product, material, or structure contains any glass or glazing product other than safety glazing material.

§ 8-2-92. Posting, painting or marking

Transparent glass or plastic doors located in commercial or public places which are situated in buildings open to the public must, in addition to use of safety glazing materials, be posted, painted, or otherwise marked in such a manner as to alert the public as to their presence. Such posting, painting, or marking shall also be required in those places glazed with nonsafety glazing materials prior to July 1, 1970.

§ 8-2-93. Labeling

Any light which is made of safety glazing material and which is manufactured, distributed, imported, sold, or installed within the State of Georgia shall be permanently labeled by the manufacturer of the glazing material by etching or sand blasting, or by firing ceramic material on the glass; and such label shall be visible after glazing. The label shall identify the manufacturer and the thickness and type of safety glazing material and shall state that it meets the requirements of USA Standard Z-97.1-1966 or such requirements as are or may be hereafter adopted by the Georgia Department of Labor. The use of such labeling or identification on materials other than safety glazing materials shall be a violation of this part.

§ 8-2-94. Enforcement by Commissioner of Labor

The Commissioner of Labor shall administer and enforce this part. He shall have the power and authority to adopt and promulgate such reasonable rules and regulations as shall be necessary in order that he might carry out the duties and responsibilities imposed upon him by this part and in order that the purposes and intent of this part shall be effectuated.

§ 8-2-95. Penalty for violation of part relating to standards for glass installations

Any person who violates any provision of this part shall be guilty of a misdemeanor.

§ 8-2-100. Definitions

As used in this part, the term:

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(1) “Alteration” means any change or addition to the equipment other than ordinary repairs or replacements.

(2) “Commissioner” means the Commissioner of Labor.

(3) “Department” means the Department of Labor.

(4) “Dumbwaiter” means a hoisting and lowering mechanism which is equipped with a car which moves in guides in a substantially vertical direction, the floor area of which does not exceed nine square feet, the total inside height of which, whether or not provided with fixed or removable shelves, does not exceed four feet, the capacity of which does not exceed 500 pounds, and the use of which is exclusively for carrying materials. Such term includes a power dumbwaiter and a hand dumbwaiter.

(5)(A) “Elevator” means a hoisting and lowering mechanism designed to carry passengers or authorized personnel and equipped with a car which moves in fixed guides and serves two or more fixed landings.

(B) Except as specifically provided in subsection (a) of Code Section 8-2-102, “elevator” also means a freight elevator, gravity elevator, hand elevator, inclined elevator, multideck elevator, observation elevator, passenger elevator, power elevator, electric elevator, hydraulic elevator, direct-plunger hydraulic elevator, electrohydraulic elevator, maintained pressure hydraulic elevator, roped-hydraulic elevator, private residence elevator, and sidewalk elevator.

(6) “Enforcement authority” means the Commissioner, officers, and inspectors of the department authorized to enforce the provisions of this part and local inspectors authorized to enforce the provisions of this part.

(7) “Escalator” means a power driven, inclined, continuous stairway used for raising or lowering passengers.

(8) “Hand dumbwaiter” means a dumbwaiter driven by manual power, serving more than two consecutive stories, whose capacity exceeds 20 pounds and whose car platform area exceeds two square feet.

(9) “Hand elevator” means an elevator utilizing manual power to move the car.

(10) “Hoistway” means a shaftway or an opening through a building or structure for the travel of elevators, dumbwaiters, or material lifts, extending from the pit floor to the roof or floor above.

(11) “Manlift” means a device consisting of a power driven endless belt moving in one direction only which is provided with steps or platforms and handholds attached to it for the transportation of personnel from floor to floor.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(12) “Moving walk” means a type of passenger-carrying device on which passengers stand or walk and in which the passenger-carrying surface remains parallel to its direction of motion and is uninterrupted.

(13) “Power dumbwaiter” means a dumbwaiter driven by the application of energy other than hand or gravity.

(14) “Power freight elevator” means an elevator used primarily for carrying freight, utilizing energy other than gravity or hand to move the car and on which only the operator and the persons necessary for unloading and loading the freight are permitted to ride.

(15) “Power passenger elevator” means an elevator used primarily to carry persons other than the operator and persons necessary for loading and unloading and utilizing energy other than gravity or hand to move the car.

§ 8-2-101. Registration of elevators, escalators, manlifts, moving walks, and dumbwaiters; maintenance; alterations

(a) Prior to January 1, 1986, the owner or lessee of every existing elevator, escalator, manlift, moving walk, and dumbwaiter shall register with the department or local enforcement authority each such elevator, escalator, manlift, moving walk, or dumbwaiter owned or operated by him, giving type, rated load and speed, name of manufacturer, its location and the purpose for which it is used, and such other information as the department or local enforcement authority may require. Such registration shall be made on a form to be furnished by the department or local enforcement authority on request. All elevators, escalators, manlifts, moving walks, and dumbwaiters erected or placed in service after January 1, 1986, shall be inspected before being placed in service and shall be registered within 15 days after they are completed and placed in service.

(b) Every elevator, dumbwaiter, manlift, moving walk, and escalator shall be maintained by the owner or lessee in a safe operating condition and in conformity with the rules and regulations specified by subsection (b) of Code Section 8-2-104.

(c) Before any alteration can be made to any elevator, escalator, manlift, moving walk, or dumbwaiter already placed in service, the owner or lessee shall be required to notify the enforcement authority of any such alteration. The enforcement authority shall be authorized to conduct an inspection after any such alteration.

§ 8-2-102. Inspections

(a)(1) Power passenger elevators, power freight elevators, escalators, manlifts, and moving walks shall be inspected once during each six-month period.

(2) Hand elevators and power and hand dumbwaiters shall be inspected once during each 12 month period.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(b) Inspections and installations shall be made in accordance with the standards set forth in Part “X” of ANSI A17.1-1984, the American National Standard Practice for Inspection of Elevators, Escalators and Moving Walks Inspector's Manual ANSI A17.2, the Safety Standards for Manlifts ANSI A90.1-1976, the Safety Standard for Construction Hoists ANSI A10.4-1981 and ANSI A10.5-1981, the Safety Standard for Conveyors and Related Equipment ANSI B20.1-1984, or the latest revised rules and regulations adopted by the Commissioner. Any inspections performed under these codes shall cover the hoistway, associated equipment rooms, and access thereto, and shall include lobby smoke detectors.

(c) A report of any inspection required by this Code section shall be filed with the department if the inspection is made by a state enforcement authority or with the local governing authority if the inspection is made by a local enforcement authority. Copies of the reports for new installations shall also be filed with the state fire marshal for his information. Such reports shall be made within ten days after the inspection has been completed, on forms prescribed by the Commissioner or the local enforcement authority, and shall indicate whether the elevator, escalator, manlift, moving walk, or dumbwaiter is safe and whether it meets the applicable rules and regulations prescribed pursuant to subsection (b) of Code Section 8-2-104. After any such report is filed, the enforcement authority may require additional inspections to assure that any such elevator, escalator, manlift, moving walk, or dumbwaiter meets such rules and regulations.

(d) If any inspection report indicates that an elevator, escalator, manlift, moving walk, or dumbwaiter is in an unsafe condition which if continually operated may endanger lives or property, then the enforcement authority may, at its discretion, require the owner or lessee to discontinue the use thereof until it has been made safe and in conformity with the rules and regulations specified in subsection (b) of Code Section 8-2-104.

(e) Elevator contractors who perform installations, alterations, repairs, or modifications on elevators, escalators, power freight elevators, moving walks, manlifts, or dumbwaiters, including the hoistways and machine rooms, shall be exempt from the requirements of Code Section 43-14-8 and Code Section 43-14-8.1.

(f) Private residence elevators shall be exempt from mandatory periodic inspections but shall be required to have an initial construction inspection as provided in the rules and regulations of the Commissioner. At the request of the owner or user of a private residence elevator, an inspection may be performed by the department and an inspection report issued. The department shall charge the person requesting the report a fee as set by the Commissioner to cover actual expenses of the inspection.

§ 8-2-103. Operating permits

(a) An operating report shall be issued by the enforcement authority if the inspection report indicates that the elevator, escalator, manlift, moving walk, or dumbwaiter complies with the applicable rules and regulations prescribed pursuant to subsection (b) of Code Section 8-2-104 and upon payment of a permit fee. Such permits shall be valid for a period of 12 months.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(b) No elevator, escalator, manlift, moving walk, or dumbwaiter shall be operated by the owner or lessee thereof unless a valid operating permit, or a limited operating permit when permitted by the rules and regulations of the Commissioner, has been issued.

(c) The operating permit shall indicate whether it is issued for an elevator, escalator, manlift, moving walk, or dumbwaiter, state the rated load and speed and, in the case of an elevator, state whether the usage is for passengers or freight. The operating permit shall be posted either conspicuously in the car of an elevator or on the premises. The operating permit for an escalator, manlift, moving walk, or a dumbwaiter shall be posted on the premises.

(d) If the enforcement authority has reason to believe that any owner or lessee to whom an operating permit has been issued is not complying with the applicable rules and regulations specified in subsection (b) of Code Section 8-2-104, it shall so notify such owner or lessee and shall give notice of a date for a hearing thereon to such owner or lessee. If, after such hearing, it shall find that such owner or lessee is not complying with such rules and regulations, it shall revoke such permit and require the owner or lessee to discontinue the use of such elevator, escalator, manlift, moving walk, or power dumbwaiter.

§ 8-2-104. Inspectors: rules and regulations; exceptions and variations

(a) The Commissioner shall be authorized to employ inspectors to carry out the provisions of this part. The Commissioner shall also be authorized to certify other qualified persons to carry out the provisions of this part, including technically competent individuals of any company licensed to insure and insuring elevators in this state and technically competent individuals of a regularly established elevator inspection service. The Commissioner shall prescribe the qualifications, authority, functions, and duties of such inspectors.

(b)(1)(A) The Commissioner shall by rules and regulations prescribe various inspection fees and operating permit fees necessary to enable the state and local enforcement authorities to carry out the provisions of this part.

(B) The owners and users of elevators, dumbwaiters, escalators, manlifts, and moving walks which are inspected by certified inspectors in private business or with private corporations shall be exempt from the payment to the state or local enforcement authorities of the inspection fees provided in subparagraph (A) of this paragraph.

(2) Elevators, dumbwaiters, escalators, manlifts, and moving walks subject to operating permit inspections by private inspectors shall be inspected within 60 calendar days following the required reinspection date. Inspections not performed within this 60 calendar day period shall result in a civil penalty of $500.00 for each elevator, dumbwaiter, escalator, manlift, or moving walk not inspected.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(3) Inspection fees due on elevators, dumbwaiters, escalators, manlifts, and moving walks subject to inspection by the chief or deputy inspectors or operating permit fees due from inspections performed by private inspectors shall be paid within 60 calendar days of completion of such inspections. Inspection fees or operating fees unpaid within 60 calendar days shall bear interest at the rate of 1.5 percent per month or any fraction of a month. Interest shall continue to accrue until all amounts due, including interest, are received by the Commissioner.

(4) The Commissioner may waive the collection of the penalties and interest assessed in paragraphs (2) and (3) of this subsection when it is reasonably determined that the delays in inspection or payment were unavoidable or due to the action or inaction of the department.

(c) The American National Standard Safety Code for elevators, dumbwaiters, escalators, and moving walks ANSI A17.1-1984 and the Safety Standards for Manlifts ANSI A90.1-1976 are adopted as rules and regulations of the Department of Labor for the purposes of this part until otherwise amended by rules and regulations of the Commissioner.

(d) In addition to the rules and regulations adopted pursuant to subsections (b) and (c) of this Code section, the Commissioner shall be authorized to adopt such rules and regulations as may be reasonably necessary to carry out the provisions of this part.

(e) The Commissioner shall also have the power in any particular case to grant exceptions and variations from the literal requirements of the rules and regulations adopted pursuant to subsection (c) of this Code section. Such exceptions and variations shall be granted only in any particular case where it is clearly evident that they are necessary to prevent undue hardship or where the existing conditions prevent compliance with the literal requirements of the rules and regulations. In no case shall any exception or variation be granted unless, in the opinion of the Commissioner, reasonable safety will be secured thereby.

§ 8-2-105. Powers of counties and municipalities which adopt rules and regulations

(a) The governing body of any municipality or county which adopts at least the minimum rules and regulations relative to inspections and safety standards for elevators, escalators, manlifts, moving walks, and dumbwaiters as provided in subsection (b) of Code Section 8-2-102 and subsection (c) of Code Section 8-2-104 shall have the power:

(1) To adopt by ordinance or resolution any reasonable provisions for the enforcement of such local standards adopted applicable to elevators, escalators, manlifts, moving walks, and dumbwaiters, including procedural requirements, provisions for hearings, provisions for appeals from decisions of local inspectors, and any other provisions or procedures necessary to the proper administration and enforcement of the requirements of such local standards;

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

(2) To provide for inspection of buildings or similar structures to ensure compliance with the local standards;

(3) To employ inspectors, including chief and deputy inspectors, and any other personnel necessary for the proper enforcement of such standards, provided that such inspectors meet the minimum qualifications of state inspectors and are certified by the Commissioner pursuant to subsection (a) of Code Section 8-2-104;

(4) To contract with other municipalities or counties adopting at least state minimum standards, or with the state, to administer such standards and to provide inspection and enforcement personnel and services necessary to ensure compliance with the standards; and

(5) To contract with any other county or municipality whereby the parties agree that the inspectors of each contracting party may have jurisdiction to enforce the local standards within the boundaries of the other contracting party.

(b) When a local enforcement authority conducts an inspection or issues an operating permit as provided in this part, any inspection fee or operating permit fee due shall be paid to the municipality or county employing the enforcement authority.

§ 8-2-106. Report of accidents

(a) The owner or lessee shall report, by telephone, to the enforcement authority on the same day or by noon on the next work day, excluding state holidays and weekends, all elevator, escalator, manlift, moving walk, or power dumbwaiter related accidents involving personal injury or death. The owner or lessee shall also provide a written report of this accident within seven days.

(b) The owner or lessee shall report, in writing, to the enforcement authority within seven days, excluding state holidays and weekends, all elevator, escalator, manlift, moving walk, or power dumbwaiter related accidents involving structural damage to the elevator, escalator, manlift, moving walk, or power dumbwaiter.

(c) Any elevator, escalator, manlift, moving walk, or power dumbwaiter involved in an accident described in subsection (a) or (b) of this Code section shall be removed from service at the time of the accident. The equipment shall not be repaired, altered, or placed back in service until inspected by a certified inspector for the enforcement authority.

§ 8-2-107. Injunctions; civil penalties

(a) The installation, alteration, maintenance, and operation of the facilities and equipment regulated by or pursuant to the provisions of this part affect the public interest, and such regulation is necessary for the protection

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

of the public health, safety, and welfare. Therefore, violations of this part or of rules and regulations adopted by or pursuant to this part are a public nuisance, harmful to the public health, safety, and welfare; and, in addition to other remedies provided by law, the actions of the Commissioner, the department, or any local enforcement authority under this part shall be enforceable by injunction properly applied for by the Commissioner or any other enforcement authority in any court of Georgia having jurisdiction over the defendant.

(b)(1) Any person, firm, partnership, or corporation which violates this part shall be guilty of a misdemeanor. Each day on which a violation occurs shall constitute a separate offense.

(2) In addition to the penalty provisions in subsection (a) of this Code section and paragraph (1) of this subsection, the Commissioner shall have the power, after notice and hearing, to levy civil penalties as prescribed in the rules and regulations of the department in an amount not to exceed $5,000.00 upon any person, firm, partnership, or corporation failing to adhere to the requirements of this part and the rules and regulations promulgated under this part. The imposition of a penalty for a violation of this part or the rules and regulations promulgated under this part shall not excuse the violation or permit it to continue.

§ 8-2-108. Appeals

(a) Any person aggrieved by an order or an act of an inspector under this chapter may, within 15 days of notice thereof, appeal from such order or act to the Commissioner who shall, within 30 days thereafter, issue an appropriate order either approving or disapproving said order or act. A copy of such order by the Commissioner shall be given to all interested parties.

(b) This part, as it applies to the Commissioner and the department, shall be governed by Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

§ 8-2-109. Consultation with Governor's Employment and Training Council; creation of committees to assist Commissioner in carrying out duties

(a) For the purpose of assisting the Commissioner in the adoption of rules and regulations and in carrying out the provisions of this part, the Commissioner shall consult with the Governor's Employment and Training Council provided for in Code Section 34-14-1.

(b) The Commissioner shall be authorized to consult with persons knowledgeable in the areas of construction, use, or safety of conveyances or facilities covered by this part and to create committees composed of such consultants and members of the Governor's Employment and Training Council to assist the Commissioner in carrying out his duties under this part.

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.

§ 8-2-109.1. Exceptions

(a) This part shall not apply to elevators located on vehicles operating under the rules of other state or federal authorities and used for carrying passengers or freight.

(b) This part shall not apply to any single-seat, single-passenger chairlift located in a building owned and operated by an incorporated or unincorporated nonprofit organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes.

(c) Any county, municipality, or other political subdivision which adopts the minimum rules and regulations as provided in Code Section 8-2-105 shall be audited on a semiannual basis for compliance by the Department of Labor; and any laws, ordinances, or resolutions in conflict with this part shall be void and of no effect.

END OF DOCUMENT

© 2009 Thomson Reuters/West. No Claim to Orig. US Gov. Works.