

West's Code of Georgia Annotated [Currentness](#)

Title 25. Fire Protection and Safety ([Refs & Annos](#))

→ [Chapter 2. Regulation of Fire and Other Hazards to Persons and Property Generally \(Refs & Annos\)](#)

→ **§ 25-2-1. "Commissioner" defined**

As used in this chapter, the term "Commissioner" means the Safety Fire Commissioner.

#### **§ 25-2-2. Creation of office**

The office of Safety Fire Commissioner is created. The Commissioner of Insurance shall be the Safety Fire Commissioner.

#### **§ 25-2-3. Duties and powers; delegation to others**

Except as provided in [Code Section 25-2-12](#), the Commissioner is charged with the duties and chief responsibility for the enforcement of this chapter. He may, consistent with this chapter, delegate to the officers and employees appointed under this chapter such duties and powers as in his discretion he shall deem necessary or advisable for the proper enforcement of this chapter and shall have full supervision and control over such officers and employees in the performance of their duties or in the exercise of any powers granted to such officers and employees by him or by this chapter. Except as provided in [Code Section 25-2-12](#), the Commissioner shall be the final authority in all matters relating to the interpretation and enforcement of this chapter, except insofar as his orders may be reversed or modified by the courts.

#### **§ 25-2-4. Rules and regulations, adoption of**

The Commissioner shall adopt such rules and regulations as he deems necessary to promote the enforcement of this chapter. Such rules and regulations shall have the force and effect of law and shall have state-wide application as being the state minimum fire safety standards 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 fire safety standards on all buildings and structures except one-family and two-family dwellings and those buildings and structures listed in [Code Section 25-2-13](#). All other applications of the state minimum fire safety standards and fees are specified in [Code Sections 25-2-4.1](#), [25-2-12](#), and [25-2-12.1](#). Before the Commissioner shall adopt as a part of his rules and regulations for the enforcement of this chapter any of the principles of the various codes referred to in this chapter, he shall first consider and approve them as reasonably suitable for the enforcement of this chapter. Not less than 15 days before any rules and regulations are promulgated, a public hearing shall be held. Notice of the hearing shall be advertised in a newspaper of general circulation.

### § 25-2-4.1. Fees and charges

(a) The Commissioner is authorized to assess and collect, and persons so assessed shall pay in advance to the Commissioner, fees and charges under this chapter as follows:

(1)	New anhydrous ammonia permit for storage in bulk (more than 2,000 gallons aggregate capacity) for sale or distribution one-time fee	\$100.00
(2)	Annual license for manufacture of explosives other than fireworks	100.00
(3)	Annual license for manufacture, storage, or transport of fireworks	1,000.00
(4)	Carnival license	100.00
(5)	Certificate of occupancy	100.00
(6)	Construction plan review:	
(A)	Bulk storage construction	100.00
(B)	Building construction, 10,000 square feet or less	100.00
(C)	Building construction, more than 10,000 square feet	.015 per square foot
(D)	Other construction	100.00
(7)	Fire sprinkler contractor certificate of competency	100.00
(8)	Liquefied petroleum gas storage license:	
(A)	2,000 gallons or less	100.00
(B)	More than 2,000 gallons	500.00
(9)	Building construction inspection:	
(A)	80 percent completion, 100 percent completion, annual, and first follow-up	none
(B)	Second follow-up	100.00
(C)	Third and each subsequent follow-up	150.00
(10)	Purchase, storage, sale, transport, or use of explosives other than fireworks:	
(A)	500 pounds or less	50.00
(B)	More than 500 pounds	100.00
(11)	New self-service gasoline station permit one-time fee	100.00
(12)	New permit to dispense compressed natural gas (CNG) for vehicular fuel one-time fee	100.00

(b) The licenses and permits for which fees or charges are required pursuant to this Code section shall not be transferable. A new license or permit and fee are required upon change of ownership.

### § 25-2-5. State fire marshal; appointment; qualifications; salary

The Commissioner shall appoint a state fire marshal. Qualifications for appointment as state fire marshal shall be previous training and experience in endeavors similar to those prescribed in this chapter. The Commissioner shall fix the

salary of the state fire marshal.

#### **§ 25-2-6. Head of Safety Fire Division**

The Safety Fire Division of the office of Commissioner of Insurance shall be headed by the state fire marshal appointed by the Commissioner.

#### **§ 25-2-7. Deputy state fire marshal and other assistants**

The state fire marshal, subject to the approval of the Commissioner, shall appoint a deputy state fire marshal and administrative fire safety specialists and shall employ such office personnel as may be required to carry out this chapter. The deputy state fire marshal and administrative fire safety specialists shall be chosen by virtue of their previous training and experience in the particular duties which shall be assigned to them. They shall take an oath to perform faithfully the duties of their office.

#### **§ 25-2-8. Expenses of employees of state fire marshal's office**

All state employees connected with the state fire marshal's office shall be allowed subsistence, lodging, and other expenses in connection with the execution of their duties when away from their headquarters. Transportation for such employees shall be paid at the mileage rate fixed by law for other state employees.

#### **§ 25-2-9. Power of state fire marshal and appointed staff to make arrests**

(a) Upon the request of the sheriff of the county, the chief of police of the jurisdiction, the district attorney of the judicial circuit, or a local fire official, the state fire marshal and any employees of such official shall have the authority to investigate the cause and origin of any fire which occurred in said county, jurisdiction, or judicial circuit.

(b) Personnel employed and authorized by the state fire marshal shall have the power to make arrests for criminal violations established as a result of investigations. Such personnel must hold certification as a peace officer from the Georgia Peace Officer Standards and Training Council and shall have the power to execute arrest warrants and search warrants for criminal violations and to arrest, upon probable cause and without warrant, any person found violating any of the provisions of applicable criminal laws. Authorized personnel empowered to make arrests pursuant to this Code section shall be empowered to carry firearms as authorized by the state fire marshal in the performance of their duties. It shall be unlawful for any person to resist an arrest authorized by this Code section or to interfere in any manner, including abetting or assisting such resistance or interference, with personnel employed by the state fire marshal in the duties imposed upon such personnel by law.

**§ 25-2-10. Appeals of rulings of state fire marshal and of commissioner; appeal bond**

Should any person, firm, corporation, or public entity be dissatisfied with any ruling or decision of the state fire marshal, the right is granted to appeal within ten days to the Commissioner. If the person, firm, corporation, or public entity is dissatisfied with the decision of the Commissioner, appeal is authorized to the superior court within 30 days in the manner provided under Chapter 13 of Title 50. In the event of such appeal, the person, firm, corporation, or public entity shall give a surety bond which will be conditioned upon compliance with the order and direction of the state fire marshal or the Commissioner or both. The amount of bond shall be fixed by the Commissioner in such amount as will reasonably cover the order issued by the Commissioner or the state fire marshal or both.

**§ 25-2-11. Repealed by Laws 1981, p. 1779, § 8, eff. April 1, 1982****§ 25-2-12. Adoption and enforcement of fire safety standards by certain counties**

(a)(1) The county governing authority in any county having a population of 100,000 or more, and the municipal governing authority in any municipality having a population of 45,000 or more, each as determined by the most recent decennial census published by the United States Bureau of the Census, and those municipalities pursuant to subsection (b) of this Code section shall adopt the state minimum fire safety standards adopted in the rules and regulations promulgated pursuant to this chapter, including all subsequent revisions thereof.

(2) With respect to those buildings and structures listed in [Code Section 25-2-13](#), except for hospitals, nursing homes, jails, ambulatory health care centers, and penal institutions and except for buildings and structures which are owned and operated or occupied by the state, every such local governing authority shall be responsible for enforcing such fire safety standards within its jurisdiction and shall:

- (A) Conduct fire safety inspections of existing buildings and structures;
- (B) Review plans and specifications for proposed buildings and structures, issue building permits when plans are approved, and conduct fire safety inspections of such buildings and structures; and
- (C) Issue permanent and temporary certificates of occupancy.

(3) Nothing in this subsection shall be construed so as to prohibit fire service personnel of any such local governing authority from making inspections of any state owned and operated or occupied building or structure listed in [Code Section 25-2-13](#) and from filing reports of such inspections with the office of the Commissioner.

(4) Nothing in this subsection shall be construed so as to place upon any municipality, county, or any officer or employee thereof, the responsibility to take enforcement action regarding any existing building or structure listed in [Code Section 25-2-13](#), if such building or structure was granted a certificate of occupancy pursuant to a waiver granted prior

to January 1, 1982, and which was granted pursuant to the recommendation of the engineering staff over the objection of the local authority having jurisdiction.

(5) Every such local governing authority shall have the authority to charge and retain appropriate fees for performing the duties required in subparagraphs (A) and (B) of paragraph (2) of this subsection. In cases where the governing authority of a municipality enforcing fire safety standards pursuant to this subsection contracts for the enforcement of fire safety standards, any municipal or county office or authority providing such enforcement shall not charge fees in excess of those charged in its own political subdivision for such enforcement.

(6) Every such local governing authority shall be responsible for investigating all cases of arson and other suspected incendiary fires within its jurisdiction, shall have the duties and powers authorized by [Code Sections 25-2-27](#), [25-2-28](#), and [25-2-29](#) in carrying out such responsibility, and shall submit quarterly reports to the state fire marshal containing fire-loss data regarding all fires within its jurisdiction. The state fire marshal shall have the authority to initiate any arson investigation upon request of any such local governing authority and he shall provide assistance to the requesting authority regarding any of the duties and responsibilities required by this paragraph.

(7) No such local governing authority shall have the authority to grant any waiver or variance which would excuse any building, structure, or proposed plans for buildings or structures from compliance with the state minimum fire safety standards as adopted in the rules and regulations promulgated pursuant to this chapter.

(b) Municipalities having a population of less than 45,000 as determined by the most recent decennial census published by the United States Bureau of the Census may adopt the state minimum fire safety standards adopted in the rules and regulations promulgated pursuant to this chapter, including all subsequent revisions thereof. The municipal governing authority shall indicate its intention to adopt and enforce the state minimum fire safety standards by forwarding a resolution so indicating to the Commissioner. The municipality shall then adopt and enforce the state minimum fire safety standards as set forth in subsection (a) of Code Section 25-2-12.

(c) With respect to those buildings and structures listed in [Code Section 25-2-13](#), in jurisdictions other than those jurisdictions covered under subsection (a) of this Code section, and with respect to every such hospital and every such building and structure owned and operated or occupied by the state, wherever located, the office of the Commissioner shall perform those duties specified in paragraph (2) of subsection (a) of this Code section and shall perform all other duties required by this chapter.

(d) Except as specifically stated in this Code section, nothing in this Code section shall reduce or avoid the duties and responsibilities of the office of the Commissioner or the state fire marshal imposed by other Code sections of this chapter, other provisions of this Code, or any existing contract or agreement and all renewals thereof between the office of the Commissioner or the state fire marshal and any other state or federal government agency. Nothing in this Code section shall prohibit the office of the Commissioner, state fire marshal, or any local governing authority from entering into any future contract or agreement regarding any of the duties imposed under this Code section.

(e)(1) The office of the Commissioner shall be responsible for interpretations of the state minimum fire safety standards as adopted in the rules and regulations promulgated pursuant to this chapter.

(2) On the construction on existing buildings, local governments authorized to enforce the state minimum fire safety standards pursuant to subsection (a) and subsection (b) of this Code section, notwithstanding paragraph (7) of subsection (a) of this Code section, may grant variances from compliance with the state minimum fire safety standards as adopted in the rules and regulations promulgated pursuant to this chapter.

(3) On the construction on existing buildings not under the jurisdiction of a local government for purposes of paragraph (2) of this subsection, the Commissioner may grant variances from compliance with the state minimum fire safety standards as adopted in the rules and regulations promulgated pursuant to this chapter.

(4) On the construction of new buildings, the Commissioner, upon the written recommendation of the state fire marshal and the written request of the fire or building official responsible for enforcing the state minimum fire safety standards, may grant variances from compliance with the state minimum fire safety standards as adopted in the rules and regulations promulgated pursuant to this chapter in jurisdictions covered under subsection (a) of this Code section and jurisdictions other than those covered under subsection (a) of this Code section.

(5) Variances granted pursuant to paragraphs (2), (3), and (4) of this subsection shall be as nearly equivalent as practical to the standards required in this chapter.

#### **§ 25-2-12.1. Local fire marshals**

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

(1) “Deputy local fire marshal” means any person who is employed by, supervised by, or otherwise assists a local fire marshal and who has been or is seeking to be deputized pursuant to this Code section.

(2) “Local fire marshal” means any employee or independent contractor of any municipality, county, or other governing authority not adopting the state minimum fire safety standards as provided in subsection (a) of [Code Section 25-2-12](#) who is responsible for performing fire safety duties for such municipality, county, or governing authority and who has been or is seeking to be deputized pursuant to this Code section.

(3) “State inspector” means any person who is employed by any board, commission, or other administrative authority of any state owned and operated or occupied facility, who is responsible for performing fire safety duties within such facility, and who has been or is seeking to be deputized pursuant to this Code section.

(b) Upon application submitted by any governing authority or administrative authority described in subsection (a) of

this Code section, the state fire marshal, subject to the approval of the Commissioner and in accordance with this Code section, shall have the authority to deputize local fire marshals, deputy local fire marshals, or state inspectors, as appropriate, as state officers. The application shall be verified by an appropriate official and shall contain the name, address, and current place of employment for each applicant seeking to be deputized and the dates and places of past employment, educational background, training experience, any area of specialization and the basis therefor, and such other information as may be required by the state fire marshal.

(c)(1) Prior to deputizing any local fire marshal, deputy local fire marshal, or state inspector, the state fire marshal shall examine the applicant's education, training, and employment experience to ascertain whether the applicant is qualified to perform duties in one or more of the following areas:

(A) Fire safety inspections;

(B) Review of plans and specifications; or

(C) Arson investigations.

(2) If the state fire marshal is satisfied that the applicant is qualified, he shall recommend to the Commissioner that the applicant be deputized as a state officer to perform the appropriate duties on behalf of the state.

(d) It shall be the responsibility of the governing authority to notify the state fire marshal when a local fire marshal is no longer employed by or accountable to such governing authority. It shall be the responsibility of the local fire marshal to ensure that his deputy local fire marshals perform their appointed duties and to notify the state fire marshal when a deputy local fire marshal is no longer employed under his authority. It shall be the responsibility of the administrative authority to ensure that state inspectors perform their appointed duties and to notify the state fire marshal when a state inspector is no longer employed by such administrative authority.

(e) All deputized local fire marshals, deputy local fire marshals, and state inspectors shall submit monthly reports of their activities to the state fire marshal and shall comply with the administrative procedures of the state fire marshal's office. Any deputized local fire marshal, deputy local fire marshal, or state inspector who is found by the state fire marshal to be negligent in performing his appointed duties or in fulfilling his responsibilities shall be removed from his position as a state officer.

#### **§ 25-2-13. Buildings constituting special hazard on account of fire**

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

(1) "Capacity" means the maximum number of persons who may be reasonably expected to be present in any building

or on any floor thereof at a given time according to the use which is made of such building. The Commissioner shall determine and by rule declare the formula for determining capacity for each of the uses described in this Code section.

(2) “Historic building or structure” means any individual building or any building which contributes to the historic character of a historic district, so designated by the state historic preservation officer pursuant to rules and regulations adopted by the Board of Natural Resources, or as so designated pursuant to the provisions of Article 2 of Chapter 10 of Title 44, the “Georgia Historic Preservation Act.”

(3) “Landmark museum building” means a historic building or structure used as an exhibit of the building or structure itself which exhibits a high degree of architectural integrity and which is open to the public not fewer than 12 days per year; however, additional uses, original or ancillary, to the use as a museum shall be permitted within the same building subject to the provisions of paragraph (3) of subsection (b) of this Code section. Landmark museum buildings must be so designated by the state historic preservation officer pursuant to rules and regulations adopted by the Board of Natural Resources.

(b)(1) Certain buildings and structures, because of construction or use, may constitute a special hazard to property or to the life and safety of persons on account of fire or panic from fear of fire. Buildings constructed or used in the following manner present such a special hazard:

(A) Buildings or structures more than three stories in height; provided, however, that nothing in this Code section shall apply to any individually owned residential unit within any such building;

(B) Any building three or more stories in height and used as a residence by three or more families, with individual cooking and bathroom facilities for each family; provided, however, that nothing in this Code section shall apply to any individually owned residential unit within any such building;

(C) Any building in which there are more than 15 sleeping accommodations for hire, with or without meals but without individual cooking facilities, whether designated as a hotel, motel, inn, club, dormitory, rooming or boarding house, or by any other name;

(D) Any building or group of buildings which contain schools and academies for any combination of grades one through 12 having more than 15 children or students in attendance at any given time and all state funded kindergarten programs;

(E) Hospitals, health care centers, mental health institutions, orphanages, nursing homes, convalescent homes, old age homes, jails, prisons, reformatories, and all administrative, public assembly, and academic buildings of colleges, universities, and vocational-technical schools. As used in this subparagraph, the terms “nursing homes,” “convalescent homes,” and “old age homes” mean any building used for the lodging, personal care, or nursing care on a 24 hour basis of four or more invalids, convalescents, or elderly persons who are not members of the same fam-

ily;

(F) Racetracks, stadiums, and grandstands;

(G) Theaters, auditoriums, restaurants, bars, lounges, nightclubs, dance halls, recreation halls, and other places of public assembly having an occupant load of 300 or more persons, except that the occupant load shall be 100 or more persons in those buildings where alcoholic beverages are served;

(G.1) Churches having an occupant load of 500 or more persons in a common area or having an occupant load greater than 1,000 persons based on total occupant load of the building or structure;

(H) Department stores and retail mercantile establishments having a gross floor area of 25,000 square feet on any one floor or having three or more floors that are open to the public. For purposes of this subparagraph, shopping centers and malls shall be assessed upon the basis of the entire area covered by the same roof or sharing common walls; provided, however, that nothing in this Code section shall apply to single-story malls or shopping centers subdivided into areas of less than 25,000 square feet by a wall or walls with a two-hour fire resistance rating and where there are unobstructed exit doors in the front and rear of every such individual occupancy which open directly to the outside;

(I) Group day-care homes and day-care centers required to be licensed or commissioned as such by the Department of Early Care and Learning and in which at least seven children receive care. As used in this subparagraph, the term “group day-care home” means a day-care facility subject to licensure by the Department of Early Care and Learning where at least seven but not more than 12 children receive care; and the term “day-care center” means a day-care facility subject to licensure or issuance of a commission by the Department of Early Care and Learning where more than 12 children receive care. Fire safety standards adopted by rules of the Commissioner pursuant to [Code Section 25-2-4](#) which are applicable to group day-care homes and day-care centers shall not require staff-to-child ratios; and

(J) Personal care homes required to be licensed as such by the Department of Community Health and having at least seven beds for nonfamily adults, and the Commissioner shall, pursuant to [Code Section 25-2-4](#), by rule adopt state minimum fire safety standards for those homes, and any structure constructed as or converted to a personal care home on or after April 15, 1986, shall be deemed to be a proposed building pursuant to subsection (d) of [Code Section 25-2-14](#) and that structure may be required to be furnished with a sprinkler system meeting the standards established by the Commissioner if he deems this necessary for proper fire safety.

(2) Any building or structure which is used exclusively for agricultural purposes and which is located in an unincorporated area shall be exempt from the classification set forth in paragraph (1) of this subsection.

(3)(A) The provisions of this paragraph relating to landmark museum buildings shall apply only to those portions of such buildings which meet all the requirements of a landmark museum building, except as otherwise provided in subparagraphs (B) and (C) of this paragraph. Subparagraphs (B) and (C) of this paragraph shall, unless otherwise provided

in such subparagraphs, preempt all state laws, regulations, or rules governing reconstruction, alteration, repair, or maintenance of landmark museum buildings. Local governing authorities may recognize the designation of landmark museum buildings by ordinance and authorize the local enforcement authority to incorporate the provisions of subparagraphs (B) and (C) of this paragraph into their local building and fire codes. Subparagraphs (D) and (E) of this paragraph shall apply to other historic buildings or structures.

(B) A landmark museum building shall be subject to the following provisions:

(i) Repairs, maintenance, and restoration shall be allowed without conformity to any state building or fire safety related code, standard, rule, or regulation, provided the building is brought into and remains in full compliance with this paragraph;

(ii) In the case of fire or other casualty to a landmark museum building, it may be rebuilt, in total or in part, using such techniques and materials as are necessary to restore it to the condition prior to the fire or casualty and use as a totally preserved building; or

(iii) If a historic building or structure, as a result of proposed work or changes in use, would become eligible and would be so certified as a landmark museum building, and the state historic preservation officer so certifies and such is submitted to the state fire and building code official with the construction or building permit application, then the work may proceed under the provisions of this paragraph.

(C) All landmark museum buildings shall comply with the following requirements:

(i) Every landmark museum building shall have portable fire extinguishers as deemed appropriate by the state or local fire authority having jurisdiction based on the applicable state or local fire safety codes or regulations;

(ii) All landmark museum buildings which contain residential units shall have electrically powered smoke or products of combustion detectors installed within each living unit between living and sleeping areas. Such detectors shall be continuously powered by the building's electrical system. When activated, the detector shall initiate an alarm which is audible in sleeping rooms of that living unit. These unit detectors shall be required in addition to any other protective system that may be installed in the building;

(iii) For all landmark museum buildings, except those protected by a total automatic fire suppression system and one and two family dwellings, approved automatic fire warning protection shall be provided as follows: install at least one listed smoke or products of combustion detector for every 1,200 square feet of floor area per floor or story. In addition, all lobbies, common corridors, hallways, and ways of exit access shall be provided with listed smoke or products of combustion detectors not more than 30 feet apart. Detectors shall be so connected as to sound an alarm audible throughout the structure or building. With respect to buildings which are totally protected by an automatic fire suppression system, activation of the sprinkler system shall sound an alarm throughout the

structure or building;

(iv) Smoke or products of combustion detectors shall be listed by a nationally recognized testing laboratory;

(v) All multistory landmark museum buildings, except one and two family dwellings, with occupancy above or below the street or grade level shall have manual fire alarm pull stations in the natural path of egress. The activation of a manual pull station shall cause the building fire warning system to sound;

(vi) Approved exit signs shall be located where designated by the local or state authority having jurisdiction in accordance with the applicable state or local code, standard, rule, or regulation;

(vii) Except for one and two family dwellings, every landmark museum building occupied after daylight, or which has occupied areas subject to being totally darkened during daylight hours due to a power failure or failure of the electrical system, shall be equipped with approved emergency lighting meeting the provisions of the applicable state or local code, standard, rule, or regulation;

(viii) Occupant loading of landmark museum buildings or structures shall be limited by either the actual structural floor load capacity or by the limitations of means of egress or by a combination of factors. Actual floor load capacity shall be determined by a Georgia registered professional engineer. Said floor load shall be posted at a conspicuous location. The building owner shall submit evidence of this certification and related computations to the enforcement authority having jurisdiction, upon request. Where one or more floors of a landmark museum building have only one means of egress, the occupant load shall be computed and occupancy limited as determined by the state or local fire marshal; and

(ix) The electrical, heating, and mechanical systems of landmark museum buildings shall be inspected and any conditions that create a threat of fire or a threat to life shall be corrected in accordance with applicable standards to the extent deemed necessary by the state or local authority having jurisdiction.

(D) Historic buildings not classified as landmark museum buildings shall meet the requirements of applicable state or local building and fire safety laws, ordinances, codes, standards, rules, or regulations as they pertain to existing buildings. If a historic building or structure is damaged from fire or other casualty, it may be restored to the condition prior to the fire or casualty using techniques and methods consistent with its original construction, or it shall meet the requirements for new construction of the applicable state or local codes, standards, rules, or regulations, provided these requirements do not significantly compromise the features for which the building was considered historically significant.

(E) As to any buildings or structures in the State of Georgia which meet the criteria of paragraph (1) of subsection (b) of this Code section and thus fall under the jurisdiction of the Safety Fire Commissioner and which also have been designated as historically significant by the state historic preservation officer, the appropriate enforcement offi-

cial, in granting or denying a variance pursuant to subsection (e) of [Code Section 25-2-12](#), shall consider the intent of this chapter, with special attention to paragraph (3) of this subsection, Article 3 of Chapter 2 of Title 8, “The Uniform Act for the Application of Building and Fire Related Codes to Existing Buildings,” Article 2 of Chapter 10 of Title 44, the “Georgia Historic Preservation Act,” and the Secretary of Interior's Standards for Preservation Projects.

(4) Nothing in this subsection shall be construed as exempting any building, structure, facility, or premises from ordinances enacted by any municipal governing authority in any incorporated area or any county governing authority in any unincorporated area, except to the extent stated in paragraph (3) of this subsection relative to landmark museum buildings or historic buildings or structures.

(c) Every person who owns or controls the use of any building, part of a building, or structure described in paragraph (1) of subsection (b) of this Code section, which, because of floor area, height, location, use or intended use as a gathering place for large groups, or use or intended use by or for the aged, the ill, the incompetent, or the imprisoned, constitutes a special hazard to property or to the life and safety of persons on account of fire or panic from fear of fire, must so construct, equip, maintain, and use such building or structure as to afford every reasonable and practical precaution and protection against injury from such hazards. No person who owns or controls the use or occupancy of such a building or structure shall permit the use of the premises so controlled for any such specially hazardous use unless he has provided such precautions against damage to property or injury to persons by these hazards as are found and determined by the Commissioner in the manner described in subsection (d) of this Code section to be reasonable and practical.

(d) The Commissioner is directed to investigate and examine construction and engineering techniques; properties of construction materials, fixtures, facilities, and appliances used in, upon, or in connection with buildings and structures; and fire prevention and protective techniques, including, but not limited to, the codes and standards adopted, recommended, or issued from time to time by the National Fire Protection Association (National Fire Code and National Electric Code), the American Insurance Association (National Building Code), the successor to the National Board of Fire Underwriters, the American Standards Association, and the Standard Building Code Congress (Southern Standard Building Code). Based upon such investigation, the Commissioner is authorized to determine and by rule to provide what reasonable and practical protection must be afforded property and persons with respect to: exits; fire walls and internal partitions adequate to resist fire and to retard the spread of fire, smoke, heat, and gases; electrical wiring, electrical appliances, and electrical installations; safety and protective devices, including, but not limited to, fire escapes, fire prevention equipment, sprinkler systems, fire extinguishers, panic hardware, fire alarm and detection systems, exit lights, emergency auxiliary lights, and other similar safety devices; flameproofing; motion picture equipment and projection booths; and similar facilities; provided, however, that any building described in subparagraph (b)(1)(C) of this Code section shall be required to have a smoke or products of combustion detector listed by a nationally recognized testing laboratory; and, regardless of the manufacturer's instructions, such detectors in these buildings shall be located in all interior corridors, halls, and basements no more than 30 feet apart or more than 15 feet from any wall; where there are no interior halls or corridors, the detectors shall be installed in each sleeping room. All detection systems permitted after April 1, 1992, shall be powered from the building's electrical system and all detection systems required by this chapter, permitted after April 1, 1992, shall have a one and one-half hour emergency power supply source. Required corridor smoke detector systems shall be electrically interconnected to the fire alarm, if a fire alarm is required. If a fire alarm is not required, the detectors at a minimum shall be approved single station detectors powered from the

building electrical service.

(e) All rules and regulations promulgated before April 1, 1968, by the Commissioner or the state fire marshal and the minimum fire safety standards adopted therein shall remain in full force and effect where applicable until such time as they are amended by the appropriate authority.

(f) The municipal governing authority in any incorporated area or the county governing authority in any unincorporated area of the state shall have the authority to enact such ordinances as it deems necessary to perform fire safety inspections and related activities for those buildings and structures not covered in this Code section.

(g) Notwithstanding any other provision of law or any local ordinance to the contrary, in the event of a conflict between any code or standard of the National Fire Protection Association (National Fire Code and National Electric Code) and of the Standard Building Code Congress (Southern Standard Building Code), the code or standard of the National Fire Protection Association (National Fire Code and National Electric Code) shall prevail. The order of precedence established by this subsection shall apply to all buildings and structures whether or not such buildings and structures are covered under this Code section.

#### **§ 25-2-14. Plans and specifications for proposed buildings; certificate of occupancy; fees**

(a)(1) Plans and specifications for all proposed buildings which come under classification in paragraph (1) of subsection (b) of [Code Section 25-2-13](#) and which come under the jurisdiction of the office of the Commissioner pursuant to [Code Section 25-2-12](#) shall be submitted to and receive approval by either the state fire marshal, the proper local fire marshal, or state inspector before any state, municipal, or county building permit may be issued or construction started. All such plans and specifications submitted as required by this subsection shall be accompanied by a fee in the amount provided in [Code Section 25-2-4.1](#) and shall bear the seal and Georgia registration number of the drafting architect or engineer or shall otherwise have the approval of the Commissioner.

(2)(A) If the state fire marshal, the proper local fire marshal, state inspector, or designated code official cannot provide plan review within 30 business days of receiving a written application for permitting in accordance with the code official's plan submittal process, then, in lieu of plan review by personnel employed by such governing authority, any person, firm, or corporation engaged in a construction project which requires plan review, regardless if the plan review is required by subsection (a) of this Code section or by local county or municipal ordinance, shall have the option of retaining, at its own expense, a private professional provider to provide the required plan review. As used in this paragraph, 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.

(B) The state fire marshal, the proper local fire marshal, state inspector, or designated code official shall advise the

permit 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 state fire marshal, the proper local fire marshal, state inspector, or designated code official 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 state fire marshal, the proper local fire marshal, state inspector, or designated code official 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 state fire marshal, the proper local fire marshal, state inspector, or designated code official 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 state fire marshal, the proper local fire marshal, state inspector, or designated code official 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 state fire marshal, the proper local fire marshal, state inspector, or designated code official and does not permit the applicant to use the services of a private professional provider and the state fire marshal, the proper local fire marshal, state inspector, or designated code official 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 state fire marshal, the proper local fire marshal, state inspector, or designated code official, the state fire marshal, the proper local fire marshal, state inspector, or designated code official shall issue the applicant a project initiation permit to allow 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 state fire marshal, the proper local fire marshal, state inspector, or designated code official 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 and process for resubmittal shall be governed by divisions (2)(H)(iii) through (2)(H)(v) of this subsection.

(C) Any plan review or inspection conducted by a private professional provider shall be no less extensive than plan reviews or inspections conducted by state, county, or municipal personnel responsible for review of plans for compliance with the state's minimum fire safety standards and, where applicable, the state's minimum accessibility standards.

(D) The person, firm, or corporation retaining a private professional provider to conduct a plan review shall be required to pay to the state fire marshal, the proper local fire marshal, state inspector, or designated code official which requires the plan review the same regulatory fees and charges which would have been required had the plan review been conducted by the state fire marshal, the proper local fire marshal, state inspector, or designated code official.

(E) A private professional provider performing plan reviews under this subsection shall review construction plans to determine compliance with the state's minimum fire safety standards in effect which were adopted pursuant to this chapter and, where applicable, the state's minimum accessibility standards adopted pursuant to Chapter 3 of Title 30. Upon determining that the plans reviewed comply with the applicable codes and standards as adopted, such private professional provider shall prepare an affidavit or affidavits on a form prescribed by the Safety Fire Commissioner certifying under oath that the following is true and correct to the best of such private professional provider's know-

ledge and belief and in accordance with the applicable professional standard of care:

(i) 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 and insurance coverage stipulated in this subsection; and

(ii) The plans comply with the state's minimum fire safety standards in effect which were adopted pursuant to this chapter and, where applicable, the state's minimum accessibility standards adopted pursuant to Chapter 3 of Title 30.

(F) All private professional providers providing plan review 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. The state fire marshal, the proper local fire marshal, state inspector, or designated code official may establish, for private professional providers working within their respective jurisdictions specified by this chapter, a system of registration listing the private professional providers within their areas of competency and verifying compliance with the insurance requirements of this subsection.

(G) The private professional provider shall be empowered to perform any plan review required by the state fire marshal, the proper local fire marshal, state inspector, or designated code official, regardless if the plan review is required by this subsection or by local county or municipal ordinance, provided that the plan review is within the scope of such private professional provider's area of expertise and competency. 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 that interior tenant build-out projects within high-rise buildings are not exempt from this subsection, or plans related to [Code Section 25-2-16](#) or [25-2-17](#) or Chapter 8, 9, or 10 of this title.

(H)(i) The permit applicant shall submit a copy of the private professional provider's plan review report to the state fire marshal, the proper local fire marshal, state inspector, or designated code official. 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 required for permitting;

(III) Other documents deemed necessary due to unusual construction or design, smoke removal systems where applicable with engineering analysis, and additional documentation required where performance based code op-

tions are used; and

(IV) Any documents required by the state fire marshal, the proper local fire marshal, state inspector, or designated code official to determine that the permit applicant has secured all other governmental approvals required by law.

(ii) No more than 30 business days after receipt of a permit application and the private professional provider's plan review report required pursuant to this subsection, the state fire marshal, the proper local fire marshal, state inspector, or designated code 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 or standards, as well as the specific reference to the relevant requirements. If the state fire marshal, the proper local fire marshal, state inspector, or designated code 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 state fire marshal, the proper local fire marshal, state inspector, or designated code official on the next business day.

(iii) If the state fire marshal, the proper local fire marshal, state inspector, or designated code 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 chapter, the promulgated rules and regulations adopted thereunder, or, where appropriate for existing buildings, the local governing authority's appeals process or the permit applicant may submit revisions to correct the deficiencies.

(iv) If the permit applicant submits revisions, the state fire marshal, the proper local fire marshal, state inspector, or designated code 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 previously identified plan features remain in noncompliance with the applicable codes or standards, with specific reference to the relevant requirements. If the state fire marshal, the proper local fire marshal, state inspector, or designated code official does not provide the second written notice within the prescribed time period, the permit shall be issued by the state fire marshal, the proper local fire marshal, state inspector, or designated code official on the next business day.

(v) If the state fire marshal, the proper local fire marshal, state inspector, or designated code 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 chapter, the rules and regulations promulgated thereunder, or, where applicable for existing buildings, the local governing authority's appeals process or the permit applicant may submit additional revisions to correct the deficiencies. For all revisions submitted after the first revision, the state fire marshal, the proper local fire marshal, state inspector, or designated code 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 or

standards, with specific reference to the relevant requirements.

(I) The state fire marshal may provide for the prequalification of private professional providers who may perform plan reviews pursuant to this subsection by rule or regulation authorized in [Code Section 25-2-4](#). In addition, any local fire marshal, state inspector, or designated code official may provide for the prequalification of private professional providers who may perform plan reviews pursuant to this subsection; however, no additional local ordinance implementing prequalification shall become effective until notice of the proper local fire marshal, state inspector, or designated code official'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 or state law for plan review personnel currently directly employed by such local governing authority.

(J) 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.

(K) If the state fire marshal, the proper local fire marshal, state inspector, or designated code official determines that the building construction or plans do not comply with the applicable codes or standards, the state fire marshal, the proper local fire marshal, state inspector, or designated code 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 or rule or regulation, after giving notice and opportunity to remedy the violation, if the state fire marshal, the proper local fire marshal, state inspector, or designated code official determines that non-compliance exists with state laws, adopted codes or standards, or local ordinances, provided that:

(i) The state fire marshal, the proper local fire marshal, state inspector, or designated code 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

(ii) If the state fire marshal, the proper local fire marshal, state inspector, or designated code official and the private professional provider are unable to resolve the dispute, the matter shall be referred to the local enforcement agency's board of appeals, except as provided in [Code Section 25-2-12](#) and appeals for those proposed buildings classified under paragraph (1) of subsection (b) of [Code Section 25-2-13](#) or any existing building under the specific jurisdiction of the state fire marshal's office shall be made to the state fire marshal and further appeal shall be under [Code Section 25-2-10](#).

(L) The state fire marshal, the proper local fire marshal, state inspector, local government, designated code official enforcement personnel, or agents of the governing authority 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 plan review services by private professional providers as provided in this subsection.

(M) Except as provided in this paragraph, no proper local fire marshal, state inspector, or designated code official shall adopt or enforce any rules, procedures, policies, or standards more stringent than those prescribed in this subsection related to private professional provider services.

(N) Nothing in this subsection shall limit the authority of the state fire marshal, the proper local fire marshal, state inspector, or designated code official to issue a stop-work order for a building project or any portion of such project, as provided by law or rule or regulation authorized pursuant to [Code Section 25-2-4](#), 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.

(O) When performing building code plan reviews related to determining compliance with the Georgia State Minimum Standard Codes most recently adopted by the Department of Community Affairs, the state's minimum fire safety standards adopted by the safety fire marshal, or the state's minimum accessibility standards pursuant to Chapter 3 of Title 30, 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 the adopted building, fire safety, or accessibility codes or standards plan review services shall be conducted by the applicable professional licensing board or as allowed by state rule or regulation. 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, the state fire marshal, the proper local fire marshal, state inspector, or designated code official enforcement personnel may decline to accept building plan reviews submitted by any private professional provider who has submitted multiple reports which required revisions due to negligence, noncompliance, or deficiencies.

(b) A complete set of approved plans and specifications shall be maintained on the construction site, and construction shall proceed in compliance with the minimum fire safety standards under which such plans and specifications were approved. The owner of any such building or structure or his authorized representative shall notify the state fire marshal, the proper local fire marshal, or state inspector upon completion of approximately 80 percent of the construction thereof and shall apply for a certificate of occupancy when construction of such building or structure is completed.

(c) Every building or structure which comes under classification in paragraph (1) of subsection (b) of [Code Section 25-2-13](#) and which comes under the jurisdiction of the office of the Commissioner pursuant to [Code Section 25-2-12](#) shall have a certificate of occupancy issued by the state fire marshal, the proper local fire marshal, or the state inspector before such building or structure may be occupied. Such certificates of occupancy shall be issued for each business establishment within the building, shall carry a charge in the amount provided in [Code Section 25-2-4.1](#), shall state the occupant load for such business establishment or building, shall be posted in a prominent location within such business

establishment or building, and shall run for the life of the building, except as provided in subsection (d) of this Code section.

(d) For purposes of this chapter, any existing building or structure listed in paragraph (1) of subsection (b) of [Code Section 25-2-13](#) and which comes under the jurisdiction of the office of the Commissioner pursuant to [Code Section 25-2-12](#) shall be deemed to be a proposed building in the event such building or structure is subject to substantial renovation, a fire or other hazard of serious consequence, or a change in the classification of occupancy. For purposes of this subsection, the term “substantial renovation” means any construction project involving exits or internal features of such building or structure costing more than the building's or structure's assessed value according to county tax records at the time of such renovation.

(e) In cases where the governing authority of a municipality which is enforcing the fire safety standards pursuant to subsection (a) of [Code Section 25-2-12](#) contracts with the office of the Commissioner for the enforcement of fire safety standards, the office of the Commissioner shall not charge such municipality fees in excess of those charged in this Code section.

#### **§ 25-2-14.1. Buildings to comply with minimum fire safety standards in effect when building constructed**

(a) Every building and structure existing as of April 1, 1968, which building or structure is listed in paragraph (1) of subsection (b) of [Code Section 25-2-13](#) shall comply with the minimum fire safety standards adopted in the rules and regulations promulgated pursuant to this chapter which were in effect at the time such building or structure was constructed, except that any nonconformance noted under the electrical standards adopted at the time such building or structure was constructed shall be corrected in accordance with the current electrical standards adopted pursuant to this chapter. A less restrictive provision contained in any subsequently adopted minimum fire safety standard may be applied to any existing building or structure.

(b) Every proposed building and structure listed in paragraph (1) of subsection (b) of [Code Section 25-2-13](#) shall comply with the adopted minimum fire safety standards that were in effect on the date that plans and specifications therefor were received by the state fire marshal, the proper local fire marshal, or state inspector for review and approval.

#### **§ 25-2-15. Temporary occupancy permits**

In existing buildings which come under the classification in paragraph (1) of subsection (b) of [Code Section 25-2-13](#), when substandard conditions are found, a temporary occupancy permit may be issued, such permit carrying a time limit adjusted to meet the amount of time deemed necessary to make the proper corrections in order to bring the building up to standard. All certificates of occupancy shall be issued against the building and shall not require renewal because of change of ownership. The same set of fees for certificates of occupancy as are applicable to proposed buildings covered in [Code Section 25-2-14](#) shall apply. The Commissioner and his delegated authorities shall determine the time limit for complying with any of the standards established pursuant to this chapter.

**§ 25-2-16. Hazardous substances; precautionary and preventive measures to prevent injury**

(a) Some substances constitute a special hazard to property and to the life and safety of persons because of certain characteristics and properties incident to their storage, handling, and transportation. Substances presenting such a special hazard include gasoline, kerosene, and other flammable liquids; liquefied petroleum gases; welding and other gases; dry-cleaning fluids; anhydrous ammonia; and other gases, liquids, or solids of a highly flammable or hazardous nature.

(b) Every person who stores, transports, or handles any of the hazardous substances listed in subsection (a) of this Code section shall so store, transport, and handle the substances as to afford every precaution and protection as may be found by the Commissioner to be reasonable and practical to avoid injury to persons from exposure, fire, or explosion caused by the storage, transportation, or handling of these substances, including transportation thereof only in vehicles which are in proper condition for that purpose.

(c) The Commissioner is directed to investigate the nature and properties of such hazardous substances and the known precautionary and protective techniques for their storage, transportation, and handling, including, but not limited to, the codes and standards adopted, recommended, or issued by the National Fire Protection Association and the Agricultural Nitrogen Institute. Based upon the investigation, the Commissioner is authorized to determine and by rule to provide what precautionary and protective techniques are reasonable and practical measures for the prevention of injury to persons and property from the storage, transportation, and handling of such highly flammable or hazardous substances. Such authorization shall include the power to provide, by rule, the minimum standards that a vehicle shall meet before it is considered to be in proper condition to transport the material. No person shall transport any such material or substance in bulk unless the vehicle in which it is transported is in the proper condition, as provided by such rules, to transport the material with reasonable safety.

(d)(1) As used in this subsection, the term:

(A) "Automatic-closing device" means a gasoline or diesel fuel pump nozzle which contains a valve which automatically shuts off the flow of gasoline or diesel fuel through the nozzle when the level of gasoline in a motor vehicle fuel tank reaches a certain level.

(B) "Hold-open latch" means a device which attaches to a gasoline or diesel fuel pump nozzle, which device mechanically holds the nozzle and valve in an open position.

(C) "Self-service station" means any place of business which sells gasoline or diesel fuel at retail and which allows customers to dispense the fuel.

(2) No self-service station shall be prohibited from installing and no customer at such station shall be prohibited from using hold-open latches on gasoline or diesel fuel pumps available for operation by the customer. However, if hold-open latches are used on pumps operated by the customer, such pumps shall be equipped with a functioning automatic-

closing device.

(e) Plans and specifications for all proposed bulk storage facilities which come under classification in subsection (a) of this Code section shall be submitted to and receive approval by the state fire marshal and the proper local fire marshal before construction is started. All such plans and specifications submitted as required by this subsection shall be accompanied by a \$ 100.00 fee for screening and shall bear the seal and Georgia registration number of the drafting architect or engineer or shall otherwise have the approval of the Commissioner.

**§ 25-2-17. Explosives; definition; applicable codes; licenses; fees; report of larcenies**

(a) As used in this Code section, the term “explosive” or “explosives” means any chemical compound or mechanical mixture which is commonly used or intended for the purpose of producing an explosion, which compound or mixture contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb. Explosives constitute a special hazard to life and safety of persons because of the danger incident to their manufacture, transportation, use, sale, and storage.

(b) Every person who manufactures, transports, uses, sells, or stores explosives shall so manufacture, transport, use, sell, and store them as to afford every precaution and protection against injury to persons as the Commissioner may determine and by rule declare to be reasonable and practical; provided, however, that nothing contained in this Code section shall be construed to extend to storage, use, or sale of small arms ammunition.

(c) The Commissioner is directed to investigate and examine the nature and properties of various explosives and known safety and protective techniques, including the safety standards, recommendations, and codes of the National Fire Protection Association (Explosives Ordinance, National Fire Code), and the American Insurance Association, the successor to the National Board of Fire Underwriters. Based upon the investigation, the Commissioner is authorized to determine and by rule to provide what reasonable and practical protection must be afforded persons with respect to the manufacture, transportation, use, sale, and storage of explosives.

(d) No person shall manufacture, transport, use, sell, or store explosives without having first obtained a license therefor issued by the Commissioner in accordance with reasonable rules established by him. The Commissioner is authorized to make reasonable rules providing for the issuance of such licenses on an annual basis to those applicants who have observed and may be expected to observe safety rules lawfully made under this Code section. Graded fees for such licenses shall be as provided in [Code Section 25-2-4.1](#). The permits for the use only of explosives may be issued by judges of the probate courts or other local elected officials whom the Commissioner may designate. Fees for such permits to use explosives shall be \$ 2.00 for each permit issued, which fee shall be retained by the issuing local official.

(e) Every person licensed under this Code section who suffers a larceny or attempted larceny of primer cord, blasting

agents, powders, and dynamite shall make a report thereof to local law enforcement agencies and to the state fire marshal, in accordance with rules made by the Commissioner. The Commissioner is authorized to make such rules.

**§ 25-2-18. Public, church and charitable buildings exempt from fees**

All federal, state, county, or city publicly owned buildings covered by this chapter are exempt from any fee or license which may be specified in this chapter. Such fees or licenses may be waived where chargeable to churches and charitable organizations.

**§ 25-2-19. Fire hazards in hotels, apartment houses, department stores, etc.; regulations**

The Commissioner shall promulgate reasonable rules and regulations governing and regulating fire hazards in hotels, apartment houses, department stores, warehouses, storage places, and places of public assembly.

**§ 25-2-20. Traveling shows; regulations governing**

All traveling motion picture shows, carnivals, and circuses shall obtain a fire prevention regulatory license from the state fire marshal based upon compliance with this chapter, as set forth in rules and regulations promulgated by the Commissioner. The fee for the license shall be \$100.00 for each calendar year or part thereof, payable to the state fire marshal, who shall pay the same into the state treasury.

**§ 25-2-21. Repealed by Laws 1981, p. 1779, § 9, eff. April 1, 1982**

**§ 25-2-22. Right of entry to inspect premises**

(a) The Commissioner and the various officials delegated by him to carry out this chapter shall have the authority at all times of the day and night to enter in or upon and to examine any building or premises where a fire is in progress or has occurred, as well as other buildings or premises adjacent to or near the same. The Commissioner and his delegated authorities shall have the right to enter in and upon all buildings and premises subject to this chapter, at any reasonable time, for the purpose of examination or inspection.

(b) Upon complaint submitted in writing, the Commissioner and the various officials to whom enforcement authority is delegated under this chapter may enter in or upon any building or premises between the hours of sunrise and sunset for the purpose of investigating the complaint. Upon the complaint of any person, the state fire marshal or his deputized officials may inspect or cause to be inspected all buildings and premises within their jurisdiction whenever he or they deem it necessary.

**§ 25-2-22.1. Inspection warrant**

(a) The Commissioner, his delegate, or any other person authorized under this title to conduct inspections of property, in addition to other procedures now or hereafter provided, may obtain an inspection warrant under the conditions specified in this Code section. Such warrant shall authorize the Commissioner or his delegate or such authorized person to conduct a search or inspection of property either with or without the consent of the person whose property is to be searched or inspected if such search or inspection is one that is elsewhere authorized under this title or the rules and regulations duly promulgated hereunder.

(b) Inspection warrants may be issued by any judge of the superior, state, municipal, or magistrate court upon proper oath or affirmation showing probable cause for the purpose of conducting inspections authorized by this title or rules promulgated under this title and for the seizure of property or the taking of samples appropriate to the inspection. For the purposes of issuance of inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this title or rules promulgated under this title sufficient to justify inspection of the area, premise, building, or conveyance in the circumstances specified in the application for the warrant.

(c) A warrant shall be issued only upon affidavit of the Commissioner or his designee or any person authorized to conduct inspections pursuant to this title, sworn to before the judicial officer and establishing the grounds for issuing the warrant. The issuing judge may issue the warrant when he is satisfied that the following conditions are met:

(1) The one seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes that property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of that property; and

(2) The issuing judge determines that the issuance of the warrant is authorized by this Code section.

(d) The warrant shall:

(1) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(2) Be directed to persons authorized by this title to conduct inspections to execute it;

(3) Command the persons to whom it is directed to inspect the area, premise, building, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

(4) Identify the item or types of property to be seized, if any; and

(5) Designate the judicial officer to whom it shall be returned.

(e) A warrant issued pursuant to this Code section must be executed and returned within ten days of its date of issuance unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be provided upon request to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. A copy of the inventory shall be delivered upon request to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(f) The judicial officer who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the superior court for the county in which the inspection was made.

#### **§ 25-2-23. Notice to correct conditions**

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

#### **§ 25-2-24. Court order to correct conditions**

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

#### **§ 25-2-25. Failure to comply with court order; effect**

If any person fails to comply with the order of the court made pursuant to [Code Section 25-2-24](#) within the time fixed, the city or county in which the building or premises in question are located shall cause the building or premises to be forthwith repaired, torn down, or demolished, the hazardous materials removed, or the dangerous conditions remedied, as the case may be, at the expense of the city or county in which the property is situated. If the owner thereof, within 30 days after notice in writing of the amount of such expense, fails, neglects, or refuses to repay the city or county the expense thereby incurred, the local authorities shall issue a fi. fa. against the owner of the property for the expense actually incurred.

#### **§ 25-2-26. Final authority for ordering enforcement of sections 25-2-22 through 25-2-25**

Code Sections 25-2-22 through 25-2-25 shall be construed so that the final authority for ordering the carrying out and enforcement of such Code sections shall be by order of the court and not by the Commissioner or his delegated authority.

#### **§ 25-2-27. Testimony to be taken where arson suspected**

The state fire marshal or his deputy, when in his opinion such proceedings are necessary, shall take the testimony on oath of all persons believed to be cognizant of or to have information or knowledge in relation to suspected arson and shall cause the testimony to be reduced to writing. If he is of the opinion that there is evidence sufficient to charge any person with the crime of arson, he shall cause such person to be arrested in accordance with the law. He shall also furnish the district attorney of the circuit in which the fire occurred with all the information obtained by him in his investigation. The district attorney shall thereupon proceed according to law.

#### **§ 25-2-28. Attendance of witnesses, procedure, etc. in investigations**

(a) The state fire marshal or the deputy state fire marshal shall have the power to summon and compel the attendance of witnesses before either or both of them, in any county in which the witness resides, to testify in relation to any matter which is designated by Code Section 25-2-27 as a subject of inquiry and to issue subpoenas to compel the production of all books, records, documents, and papers pertaining to such subject of inquiry. The state fire marshal and deputy state fire marshal may also administer oaths and affirmations to persons appearing as witnesses before them. Any person summoned shall have the right of counsel at the hearing if he desires.

(b) Should any person fail to comply with this Code section, the state fire marshal or his agent is authorized to procure an order from the superior court of the county in which the proposed witness resides, requiring compliance under the law.

#### **§ 25-2-29. Conduct of hearings**

All hearings held by or under the direction of the Commissioner shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and the Commissioner may also satisfy the procedure for conduct of hearings on contested cases and rule making required under said chapter by following and complying with Chapter 2 of Title 33.

#### **§ 25-2-30. General promotion of fire prevention and life safety**

It shall be the duty of the state fire marshal to contact individuals, associations, and state agencies, both within and outside this state, which have a direct interest in the fundamentals of fire prevention and life safety, for the purpose of

promoting the objectives of this chapter.

**§ 25-2-31. Dissemination of fire prevention information**

(a) The state fire marshal may promote any plan or program which tends to disseminate information on fire prevention and similar projects and may aid any association or group of individuals which is primarily organized along such lines.

(b) It shall be the duty of the state fire marshal to carry on a state-wide program of fire prevention education in the schools of this state and to establish fire drills therein. All local school authorities are required to cooperate with the state fire marshal in carrying out programs designed to protect the lives of school children from fire and related hazards.

**§ 25-2-32. Record of fire losses and other statistical data; duty of State Fire Marshal to keep; reports by fire insurance companies as to losses**

(a) It shall be the duty of the state fire marshal to keep an up-to-date record of all fire losses, together with statistical data concerning the same. The various fire insurance companies doing business in this state shall submit to the Commissioner, quarterly, a report stating all the losses sustained by them, together with such pertinent data as may be required by the Commissioner.

(b) Effective January 1, 1993, all incidents of fires, whether accidental or incendiary, shall be reported to the office of the Safety Fire Commissioner. Every fire department shall submit incident data either via a uniform electronic reporting method or on a uniform reporting form prescribed by the Commissioner and at intervals established by the Commissioner.

**§ 25-2-32.1. Report of certain burn injuries or wounds**

Every case of a burn injury or wound where the victim sustained second-degree or third-degree burns to 5 percent or more of the body or any burns to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air, and every case of a burn injury or wound which is likely to or may result in death, shall be reported at once to the Safety Fire Division of the office of the Commissioner of Insurance. The Safety Fire Division shall accept the report and notify the proper investigatory agency as may be appropriate. A written report shall be provided to the Safety Fire Division within 72 hours. The report shall be made by the physician attending or treating the case or by the manager, superintendent, or other person in charge whenever such case is treated in a hospital sanitarium, institution, or other medical facility.

**§ 25-2-32.2. Investigation of burn injuries or wounds to ascertain cause of fires or explosions of suspicious origin**

Every county or municipal governing authority or any two or more governing authorities or the Safety Fire Division are authorized and empowered to take such action as may be required to formulate task forces, teams, or fire or police investigative units to investigate any case of a burn injury or wound sustained as reported pursuant to [Code Section 25-2-32.1](#), to ascertain the cause of fires or explosions of suspicious origin within the county or municipalities, to pursue necessary investigation thereof, and to assist in the preparation and prosecution of cases stemming from any alleged criminal activity attendant to such fires or explosions.

**§ 25-2-33. Insurance companies required to furnish fire officials information relating to their investigation of property losses**

(a) The state fire marshal, any deputy designated by the state fire marshal, the director of the Georgia Bureau of Investigation or the chief of a fire department of any municipal corporation or county where a fire department is established may request any insurance company investigating a fire loss of real or personal property to release any information in its possession relative to that loss. The company shall release the information to and cooperate with any official authorized to request such information pursuant to this Code section. The information to be released shall include, but is not limited to:

(1) Any insurance policy relevant to the fire loss under investigation and any application for such a policy;

(2) Policy premium payment records on the policy, to the extent available;

(3) Any history of previous claims made by the insured for fire loss with the reporting carrier; and

(4) Material relating to the investigation of the loss, including statements of any person, proof of loss, and any other relevant evidence.

(b) If an insurance company has reason to suspect that a fire loss to its insured's real or personal property was caused by incendiary means, the company shall notify the state fire marshal and furnish him with all relevant material acquired by the company during its investigation of the fire loss. The insurer shall also cooperate with and take such action as may be requested of it by the state fire marshal's office or by any law enforcement agency of competent jurisdiction. The company shall also permit any person to inspect its records pertaining to the policy and to the loss if the person is authorized to do so by law or by an appropriate order of a superior court of competent jurisdiction.

(c) In the absence of fraud or malice, no insurance company or person who furnishes information on its behalf shall be liable for damages in a civil action or subject to criminal prosecution for any oral or written statement made or any other action taken which is necessary to supply information required pursuant to this Code section.

(d) The officials and departmental and agency personnel receiving any information furnished pursuant to this Code

section shall hold the information in confidence until such time as its release is required pursuant to a criminal or civil proceeding, provided that nothing contained in this Code section shall be deemed to prohibit representatives of the state fire marshal's office or other authorized law enforcement officials from discussing such matters with other agency or departmental personnel or with other law enforcement officials or from releasing or disclosing any such information during the conduct of their investigation, if the release or disclosure is necessary to enable them to conduct their investigation in an orderly and efficient manner; provided, further, that nothing contained in this Code section shall prohibit an insurance company which furnishes information to an authorized agency or agencies pursuant to this Code section from having the right to request relevant information and receive, within a reasonable time not to exceed 30 days, the information requested.

(e) Any official referred to in subsection (a) of this Code section may be required to testify as to any information in his possession regarding the fire loss of real or personal property in any civil action against an insurance company for the fire loss in which any person seeks recovery under a policy.

(f)(1) No person shall purposely refuse to release any information requested pursuant to subsection (a) of this Code section.

(2) No person shall purposely refuse to notify the state fire marshal of a fire loss required to be reported pursuant to subsection (b) of this Code section.

(3) No person shall purposely refuse to supply the state fire marshal with pertinent information required to be furnished pursuant to subsection (b) of this Code section.

(4) No person shall purposely fail to hold in confidence information required to be held in confidence by subsection (d) of this Code section.

(g) Any person willfully violating this Code section shall be guilty of a misdemeanor.

#### **§ 25-2-33.1. Reports of arson or suspected arson**

(a) The fire department of each county and municipality and any other organized fire department operating within this state shall report every incident or suspected incident of arson to the local law enforcement agency, the state fire marshal, and every insurance company with a known pecuniary interest in the cause of the fire in which arson is involved or suspected to be involved. In any local jurisdiction where an organized fire department is not operating, the local law enforcement agency investigating a fire shall make the reports required by this Code section. Such reports shall be made on forms provided for that purpose by the state fire marshal.

(b) Any insurance company which has received a report of an incident or suspected incident of arson under subsection

(a) of this Code section shall not pay any claim relating thereto prior to notifying in writing the state fire marshal and local fire department of the date the claim is to be paid.

#### **§ 25-2-34. Cooperation of Department of Public Safety, Georgia State Patrol, and Georgia Bureau of Investigation**

The Department of Public Safety, the Georgia State Patrol, and the Georgia Bureau of Investigation shall cooperate with the Commissioner and his deputies and inspectors whenever called upon by him or them in enforcing this chapter. They shall make available to the Commissioner or his deputies and inspectors such facilities as lie detectors, broadcasting facilities, and other aid and devices as requested.

#### **§ 25-2-35. Fees of sheriffs and other peace officers for assistance**

The Commissioner is authorized to pay sheriffs and other peace officers reasonable fees for assistance given in assembling evidence as to the causes or criminal origin of fires and in apprehending persons guilty of arson.

#### **§ 25-2-36. Injunctions**

In addition to the civil monetary penalty provided for in [Code Section 25-2-37](#), the Commissioner may bring a civil action to enjoin a violation of any provision of this chapter or any rule, regulation, or order issued by the Commissioner under this chapter. In particular, but not by way of limitation upon the authority granted in this Code section, the Commissioner may bring an action to enjoin any construction found to be in contravention of [Code Section 25-2-13](#) or [25-2-14](#) or to obtain an order of court directing the immediate evacuation and the secure closure of any structure which, by reason of violation of any provision of this chapter or of any rule, regulation, or order issued by the Commissioner under this chapter, is found to pose an immediate threat to the property, health, or lives of the occupants of the structure. In order to avail himself of the remedies provided for in this Code section, it shall not be necessary for the Commissioner to allege or to prove the absence of an adequate remedy at law.

#### **§ 25-2-37. Civil penalties**

(a) It shall be unlawful for any person to lock an exit door whether or not it is a required exit unless such provisions are allowed by this chapter or by any rule, regulation, or order issued by the Commissioner under this chapter.

(b) It shall be unlawful for any person to begin construction on any proposed building or structure which comes under the classification in paragraph (1) of subsection (b) of [Code Section 25-2-13](#) and which comes under the jurisdiction of the office of the Commissioner of Insurance pursuant to [Code Section 25-2-12](#) without first having plans approved in accordance with [Code Section 25-2-14](#).

(c) Any person who violates this chapter or any rule, regulation, or order issued by the Commissioner under this

chapter shall be subject to a civil penalty imposed by the Commissioner in accordance with the rules and regulations promulgated by the Commissioner.

(d) Any person who violates this chapter or any rule, regulation, or order issued by the Commissioner under this chapter shall be subject to a civil penalty not to exceed \$ 1,000.00 for each day that the violation persists after such person is notified of the Commissioner's intent to impose such penalty and of the right to a hearing with respect to same.

(e) Any person violating subsection (a), (b), or (c) of this Code section shall be subject to a fine of not more than \$ 1,000.00 for a first offense, not less than \$ 1,000.00 and not more than \$ 2,000.00 for a second offense, and not less than \$ 2,000.00 and not more than \$ 5,000.00 for a third or subsequent offense.

#### **§ 25-2-38. Violations relating to fire safety law**

Any person, firm, or corporation violating this chapter or failing or refusing to comply with any regulation promulgated under this chapter shall be guilty of a misdemeanor.

#### **§ 25-2-38.1. Waiver of sovereign immunity; relief from legal duties**

(a) Nothing in this chapter shall be construed to constitute a waiver of the sovereign immunity of the state, or any officer or employee thereof, in carrying out the provisions of this chapter. No action shall be maintained against the state, any municipality, county, or any officer, elected officer or employees thereof, for damages sustained as a result of any fire or related hazard covered in this chapter by reason of any inspection or other action taken or not taken pursuant to this chapter.

(b) Nothing in this chapter shall be construed to relieve any property owner or lessee thereof from any legal duty, obligation, or liability incident to the ownership, maintenance, or use of such property.

#### **§ 25-2-39. Construction**

It is declared that this chapter is necessary for the public safety, health, peace, and welfare, is remedial in nature, and shall be construed liberally.

#### **§ 25-2-40. Smoke detectors to be installed in new dwellings, dwelling units, and other facilities**

(a)(1) Except as otherwise provided in subsection (f) of this Code section, on and after July 1, 1987, every new dwelling and every new dwelling unit within an apartment, house, condominium, and townhouse and every motel, hotel, and

dormitory shall be provided with an approved listed smoke detector installed in accordance with the manufacturer's recommendations and listing.

(2) On and after July 1, 1994, every dwelling and every dwelling unit within an apartment, house, condominium, and townhouse and every motel, hotel, and dormitory which was constructed prior to July 1, 1987, shall have installed an approved battery operated smoke detector which shall be maintained in good working order unless any such building is otherwise required to have a smoke detector system pursuant to [Code Section 25-2-13](#).

(3) On and after July 1, 2001, every patient sleeping room of every nursing home shall be provided with no less than an approved listed battery operated single station smoke detector installed in accordance with their listing. Such detectors shall be maintained in good working order by the operator of such nursing home. This paragraph shall not apply to nursing homes equipped with automatic sprinkler systems.

(b) In dwellings, dwelling units, and other facilities listed in subsection (a) of this Code section, a smoke detector shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to each group of rooms used for sleeping purposes. Where the dwelling or dwelling unit contains more than one story, detectors are required on each story including cellars and basements, but not including uninhabitable attics; provided, however, that hotels and motels which are protected throughout by an approved supervised automatic sprinkler system installed in accordance with the rules and regulations of the Commissioner shall be exempt from the requirement to install smoke detectors in interior corridors but shall be subject to all other applicable requirements imposed under [Code Section 25-2-13](#).

(c) In dwellings, dwelling units, and other facilities listed in paragraph (1) of subsection (a) of this Code section with split levels, a smoke detector need be installed only on the upper level, provided the lower level is less than one full story below the upper level, except that if there is a door between levels then a detector is required on each level. Such detectors shall be connected to a sounding device or other detector to provide an alarm which will be audible in the sleeping areas.

(d) Detectors shall be listed and meet the installation requirements of NFPA 72. In addition, a one and one-half hour emergency power supply source is required on all detection systems required by this chapter and permitted after April 1, 1992, except where battery operated smoke detectors are allowed.

(e) Any complete automatic fire alarm system using automatic smoke detectors shall be installed in accordance with NFPA 72.

(f)(1) The provisions of this Code section may be enforced by local building and fire code officials in the case of residential buildings which are not covered by [Code Section 25-2-13](#); provided, however, that this Code section shall not establish a special duty on said officials to inspect such residential facilities for compliance with this Code section; provided, further, that inspections shall not be conducted for the purpose of determining compliance with this Code

section absent reasonable cause to suspect other building or fire code violations. The jurisdiction enforcing this Code section shall retain any fines collected pursuant to this subsection.

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

(3) Any operator of a nursing home who fails to install and maintain the smoke detectors required under paragraph (3) of subsection (a) of this Code section shall be sanctioned in accordance with Code Section 31-2-11.

(g) Failure to maintain a smoke detector in good working order in a dwelling, dwelling unit, or other facility listed in subsection (a) of this Code section in violation of this Code section shall not be considered evidence of negligence, shall not be considered by the court on any question of liability of any person, corporation, or insurer, shall not be any basis for cancellation of coverage or increase in insurance rates, and shall not diminish any recovery for damages arising out of the ownership, maintenance, or occupancy of such dwelling, dwelling unit, or other facility listed in subsection (a) of this Code section.

(h) The Safety Fire Commissioner is authorized and encouraged to inform the public through public service announcements of the availability of a limited number of battery operated smoke detectors which may be obtained by persons in need without charge from the office of the Safety Fire Commissioner or local fire departments.

END OF DOCUMENT