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## CONSERVATION AND NATURAL RESOURCES Department of Natural Resources: Specify Time Period in Which the Director Must Act on Permit and Variance Applications; Provide for a Fee Waiver When the Director Does Not Act Within the Time Specified

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## CONSERVATION AND NATURAL RESOURCES

*Department of Natural Resources: Specify Time Period in Which the Director Must Act on Permit and Variance Applications; Provide for a Fee Waiver When the Director Does Not Act Within the Time Specified*

CODE SECTION:	O.C.G.A. § 12-2-2 (amended)
BILL NUMBER:	SB 327
ACT NUMBER:	724
GEORGIA LAWS:	2000 Ga. Laws 877
SUMMARY:	The Act specifies a time limit within which the Director of the Environmental Protection Division of the Department of Natural Resources must act on permit or variance applications. The Act also requires the Director to refund all application fees, except those required by federal law, when the Director fails to act in the time allotted.
EFFECTIVE DATE:	July 1, 2000

### *History*

Prior to the passage of SB 327, the Environmental Protection Division (EPD) was not legally required to act on permits in a timely fashion.<sup>1</sup> As a result, the EPD failed to act on some permits for more than a year after receiving the initial application.<sup>2</sup> SB 327 was written to require the EPD to act on permit applications within a reasonable time and to penalize the EPD if it did not fulfill this responsibility.<sup>3</sup> However, prior to the start of the 2000 legislative session, some members of the General Assembly acknowledged that the EPD needed more

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1. See 1984 Ga. Laws 404, § 1, at 405 (formerly found at O.C.G.A. § 12-2-2 (1996)).

2. See Audio Recording of Senate Proceedings, Feb. 8, 2000 (remarks by Sen. Hugh Gillis) <<http://www.ganet.org/services/leg/audio/2000archive.html>> [hereinafter Senate Audio].

3. See Telephone Interview with Rep. Tom Shanahan, House District No. 10 (May 11, 2000).

personnel and discussed possible ways to pay for additional EPD employees.<sup>4</sup> One idea that was considered would have authorized the EPD to charge a fee for each permit application.<sup>5</sup> Following these early discussions, the Georgia General Assembly funded approximately fifty additional EPD employees without imposing any new permit fees.<sup>6</sup> Even though new fees were not passed, the EPD does require an application fee for permits dealing with air quality, solid waste, and hazardous waste.<sup>7</sup> The penalty in SB 327 will apply to these existing fees and any new fees passed.<sup>8</sup>

### *SB 327*

Senators Terrell Starr, Charles Walker, and Hugh Gillis of the 44th, 22nd, and 20th Senate Districts, respectively, sponsored SB 327.<sup>9</sup> After the bill was introduced on the Senate floor on January 13, 2000, the Senate assigned the bill to its Natural Resources Committee.<sup>10</sup>

As introduced, SB 327 proposed amending the Georgia Code to require the Director of the EPD to grant or deny permit and variance applications within ninety days of receipt.<sup>11</sup> The bill also allowed the Director to order an extension of up to ninety days to make the decision.<sup>12</sup> Furthermore, the bill required the Director to refund all application fees if he did not act on the application within the specified time period.<sup>13</sup> Upon review, the Senate Natural Resources Committee modified the bill by adding a requirement for the Director to notify applicants of any materials required to complete the application within thirty days of receipt.<sup>14</sup> The Committee also reduced the extension that the Director may order from ninety days to sixty days and

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4. *See id.*

5. *See id.*

6. *See id.*

7. *See* Senate Audio, *supra* note 2 (remarks by Sen. Terrell Starr).

8. *See* Telephone Interview with Bill Littlefield, Office of the Lieutenant Governor (May 12, 2000).

9. *See* SB 327, as introduced, 2000 Ga. Gen. Assem.

10. *See* State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

11. *See* SB 327, as introduced, 2000 Ga. Gen. Assem.

12. *See id.*

13. *See id.*

14. *Compare* SB 327, as introduced, 2000 Ga. Gen. Assem., *with* SB 327 (SCS), 2000 Ga. Gen. Assem.

excepted fees required by federal law from the refund provision.<sup>15</sup> On February 3, 2000, the Senate Natural Resources Committee favorably reported the bill, as substituted,<sup>16</sup> and the Senate passed SB 327 on February 8, 2000.<sup>17</sup>

The House Committee Natural Resources & Environment favorably reported SB 327, without changes on March 3, 2000,<sup>18</sup> and the House passed the bill on March 15, 2000.<sup>19</sup> Governor Roy Barnes signed SB 327 into law on April 27, 2000.<sup>20</sup>

### *The Act*

The Act amends Georgia Code section 12-2-2 by placing time limits for review and action on permit and variance applications submitted to the EPD.<sup>21</sup> Specifically, the Act amends paragraph (1) of subsection (c) of Code section 12-2-2 to require the Director of the EPD to notify an applicant of any materials needed to complete the application within thirty days of receipt.<sup>22</sup> The Act further provides that the Director must grant or deny the application within ninety days of receipt of a completed application, but allows the Director to order an extension of up to sixty days to act upon the application.<sup>23</sup> Finally, the Act provides for a refund and waiver of all application fees not required by federal law when the Director does not grant or deny a permit or variance within the required time period.<sup>24</sup>

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15. Compare SB 327, as introduced, 2000 Ga. Gen. Assem., with SB 327 (SCS), 2000 Ga. Gen. Assem.

16. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

17. See Georgia Senate Voting Record, SB 327 (Feb. 8, 2000).

18. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

19. See Georgia House of Representatives Voting Record, SB 327 (Mar. 15, 2000).

20. See 2000 Ga. Laws 877, § 3, at 878.

21. Compare 1984 Ga. Laws 404, §1, at 405 (formerly found at O.C.G.A. § 12-2-2(c)(1) (1996)), with O.C.G.A. § 12-2-2(c)(1) (Supp. 2000).

22. Compare 1984 Ga. Laws 404, §1, at 405 (formerly found at O.C.G.A. § 12-2-2(c)(1) (1996)), with O.C.G.A. § 12-2-2(c)(1) (Supp. 2000).

23. Compare 1984 Ga. Laws 404, §1, at 405 (formerly found at O.C.G.A. § 12-2-2(c)(1) (1996)), with O.C.G.A. § 12-2-2(c)(1) (Supp. 2000).

24. Compare 1984 Ga. Laws 404, §1, at 405 (formerly found at O.C.G.A. § 12-2-2(c)(1) (1996)), with O.C.G.A. § 12-2-2(c)(1) (Supp. 2000).