ACTS AND RESOLUTIONS

OF THE

GENERAL ASSEMBLY

OF THE

STATE OF GEORGIA

2007



COMPILED AND PUBLISHED BY AUTHORITY OF THE STATE

Volume One
Book One

COMPILER'S NOTE

General Acts and Resolutions of the 2007 Regular Session of the General Assembly of Georgia will be found in Volume One, Book One beginning at page 1. The Supplementary Appropriations Act for FY 06-07 and the Appropriations Act for FY 07-08 will be found in the Volume One, Book Two Appendix. These two Acts have been separately placed in the Appendix in order to maintain the special formatting and unique characteristics of the underlying bills. Local and Special Acts and Resolutions will be found in Volume Two beginning at page 3501. Home rule actions by counties and consolidated governments and by municipalities filed in the Office of the Secretary of State between May 1, 2006 and April 30, 2007 are printed in Volume Two beginning at pages 4391 and 4447, respectively.

There are no numbered pages between page 776, the last page of Volume One, Book One, and page 3501, the first page of Volume Two. This allows both volumes to be prepared simultaneously. Volume One has been divided into two books because of the number of pages in the volume. The only page numbers in Volume One, Book Two will be those appearing in the underlying bills.

Indexes; lists of Acts, Bills, and Resolutions and their Georgia Laws page numbers; material related to courts; population charts; lists of members of the General Assembly; referendum results; the state auditor's report on funding of retirement bills; and the Governor's veto message are printed in Volume Three. Indexes cover material in both Volumes One and Two. The tabular indexes list matter by broad categories. The general index is a detailed alphabetical index by subject matter. When possible, general Acts have been indexed by reference to the titles of the Official Code of Georgia Annotated which they amend and the tabular index contains a list of Code sections which have been amended, enacted, or repealed.

Each Act and Resolution is preceded by a caption written by the compilers of the Georgia Laws solely to assist the reader in quickly determining the subject matter of the Act or Resolution. This caption includes the Act number assigned by the Governor and the House or Senate Bill or Resolution number which it was given when it was introduced in the General Assembly. These captions are not part of the Act or Resolution when they are enacted or adopted by the General Assembly. Each Act or Resolution which was signed by the Governor is followed by the approval date on which it was signed by the Governor.

GEORGIA LAWS 2007

TABLE OF CONTENTS

VOLUME ONE

Acts and Resolutions of General Application 1
Supplementary Appropriations Act for FY 06-07..... Appendix
General Appropriations Act for FY 07-08..... Appendix

VOLUME TWO

Acts and Resolutions of Local Application..... 3501
County and Consolidated Government Home Rule Actions..... 4391
Municipal Home Rule Actions..... 4447
Georgetown-Quitman County Charter..... 4519

VOLUME THREE

Acts by Numbers-Page References..... 1A
Bills and Resolutions-Act Number References..... 5A
Index-Tabular..... 10A
Index-General..... 37A
Population of Georgia Counties-Alphabetically..... 101A
Population of Georgia Counties-Numerically..... 105A
Population of Municipalities-Alphabetically..... 110A
Population of Municipalities-Numerically..... 118A
Population of Judicial Circuits..... 126A
Georgia Senate Districts, Alphabetically by County..... 131A
Georgia Senators, Numerically by District..... 133A
Georgia House Districts, Alphabetically by County..... 137A
Georgia Representatives, Numerically by District..... 139A
Status of Referendum Elections..... 149A
Vetoes by the Governor..... 364A
Legislative Services Committee and Staff..... 401A

DESIGNATE THE ELBERT SHAW, JR. REGIONAL YOUTH DETENTION CENTER.

No. 4 (House Resolution No. 21).

A RESOLUTION

Honoring the services of Mr. Elbert Shaw, Jr., of Dalton, Georgia, and designating the Dalton Regional Youth Detention Center as the Elbert Shaw, Jr. Regional Youth Detention Center; and for other purposes.

WHEREAS, the director, Bobby Hughes, the staff, and the advisory board of the Dalton Regional Youth Detention Center are most grateful for the many contributions of Mr. Elbert Shaw, Jr., and would like to pay tribute to his legacy by naming the center in his honor; and

WHEREAS, Mr. Shaw has served the center as a volunteer, Christian counselor, advisory board member, Sunday school teacher, community resource person, and goodwill ambassador for 31 years and over 12,000 volunteer hours; and

WHEREAS, during his 31 years of service, he has touched the lives of countless students who have resided at the Dalton Regional Youth Detention Center and continued to counsel students following their release; and

WHEREAS, Mr. Shaw has been recognized in the Dalton community for his untiring energy and for helping the youth of Northwest Georgia.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the members of this body honor Elbert Shaw, Jr., and his dedication to children and youth and recognize the many contributions he has made to the State of Georgia.

BE IT FURTHER RESOLVED that, in recognition of his 31 years of service, the facility known as Dalton Regional Youth Detention Center located in Dalton, Georgia, be hereinafter designated as the Elbert Shaw, Jr. Regional Youth Detention Center, Dalton, Georgia, and the Department of Juvenile Justice is authorized and directed to place and maintain appropriate signs so designating said facility.

BE IT FURTHER RESOLVED that the Clerk of the House of Representatives is authorized and directed to transmit appropriate copies of this resolution to Elbert Shaw, Jr., and the Department of Juvenile Justice.

Approved April 3, 2007.

REVENUE – INTERNAL REVENUE CODE; INCORPORATION OF PROVISIONS INTO GEORGIA LAW.

No. 6 (House Bill No. 357).

AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to define the terms "Internal Revenue Code" and "Internal Revenue Code of 1986" for certain taxable years and thereby incorporate certain provisions of the federal law into Georgia law and provide that such provisions shall supercede and control over certain other provisions; to define the terms "Internal Revenue Code" and "Internal Revenue Code of 1986" and thereby incorporate certain provisions of the federal law into Georgia law; to provide for effective dates; to provide applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended in Code Section 48-1-2, relating to definitions of terms, by adding a new paragraph to read as follows:

"(14.1) 'Internal Revenue Code' or 'Internal Revenue Code of 1986' means for taxable years beginning after December 31, 2005, but before January 1, 2007, the provisions of the United States Internal Revenue Code of 1986 ", as amended," provided for in federal law enacted on or before January 1, 2006, except that Section 168(k) (but not excepting Section 168(k)(2)(A)(i), Section 168(k)(2)(D)(i), and Section 168(k)(2)(E)), Section 199, Section 1400L, Section 1400N(d)(1), Section 1400N(j), and Section 1400N(k) of the Internal Revenue Code of 1986 ", as amended," shall be treated as if they were not in effect, and except that the following provisions shall be as amended by the federal Tax Relief and Health Care Act of 2006 (Pub. L. No. 109-432) as such federal act existed on December 20, 2006, and effective for purposes of Georgia taxation on the same dates

upon which they became effective for federal tax purposes pursuant to said federal act: Sections 38, 41, 45A, 45N, 51, 51A, 61, 62, 106, 121, 143, 164, 168 (except 168(k) but not excepting 168(k)(2)(A)(i), 168 (k)(2)(D)(i), and 168(k)(2)(E)), 170, 179E, 198, 220, 222, 223, 263, 280C, 312, 355, 613A, 954, 1043, 1221, 1245, 1355, 1397E, 1400A, 1400B, 7623, and 7872. For such taxable years, provisions of the Internal Revenue Code of 1986 ", as amended," which were as of January 1, 2006, enacted into law but not yet effective shall be effective for purposes of Georgia taxation on the same dates upon which they become effective for federal tax purposes. The provisions of this paragraph shall supercede and control over any provision of paragraph (14) of this Code section to the contrary."

SECTION 2.

Said title is further amended by revising paragraph (14) of Code Section 48-1-2, relating to definitions of terms, as follows:

"(14) 'Internal Revenue Code' or 'Internal Revenue Code of 1986' means for taxable years beginning on or after January 1, 2007, the provisions of the United States Internal Revenue Code of 1986 ", as amended," provided for in federal law enacted on or before January 1, 2007, except Section 168(k), (but not excepting Section 168(k)(2)(A)(i), Section 168(k)(2)(D)(i), and Section 168(k)(2)(E)), Section 199, Section 1400L, Section 1400N(d)(1), Section 1400N(j), and Section 1400N(k) of the Internal Revenue Code of 1986 ", as amended," shall be treated as if they were not in effect. In the event a reference is made in this title to the Internal Revenue Code or the Internal Revenue Code of 1954 as it existed on a specific date prior to January 1, 2007, the term means the provisions of the Internal Revenue Code or the Internal Revenue Code of 1954 as it existed on the prior date. Unless otherwise provided in this title, any term used in this title shall have the same meaning as when used in a comparable provision or context in the Internal Revenue Code of 1986 ", as amended,". For taxable years beginning on or after January 1, 2007, provisions of the Internal Revenue Code of 1986 ", as amended," which were as of January 1, 2007, enacted into law but not yet effective shall become effective for purposes of Georgia taxation on the same dates upon which they become effective for federal tax purposes."

SECTION 3.

(a) Section 1 of this Act shall become effective upon this Act's approval by the Governor or upon its becoming law without such approval and shall be applicable to all taxable years beginning after December 31, 2005, but before January 1, 2007.

(b) Except as otherwise provided in subsection (a) of this section, this Act shall become effective upon this Act's approval by the Governor or upon its becoming law without such approval and shall be applicable to all taxable years beginning on or after January 1, 2007.

SECTION 4.

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

Approved April 17, 2007.

TORTS – ASBESTOS AND SILICA CLAIMS; COMPREHENSIVE REVISION.

No. 9 (Senate Bill No. 182).

AN ACT

To amend Title 51 of the Official Code of Georgia Annotated, relating to torts, so as to change provisions relating to asbestos claims and silica claims; to state legislative findings and purpose; to provide for applicability; to provide definitions; to provide that physical impairment shall be an essential element of an asbestos claim or a silica claim; to provide for a limitations period for filing a claim; to provide for dismissal of pending claims under certain conditions; to provide for general rules applicable to new filings; to provide for forum non conveniens; to provide for venue; to provide for joinder and consolidation of claims; to clarify Georgia law and to create provisions relating to asbestos claims and successor corporations; to provide for legislative findings and intent; to provide definitions; to provide that limitations of liabilities for asbestos claims apply to a corporation that is a successor and became a successor corporation before January 1, 1972; to provide for exceptions to the limitations; to provide for other exceptions; to provide for methods by which to establish fair market value of total gross assets; to provide for the fair market value of total gross assets at the time of a merger or consolidation to increase annually; to provide for adjustments; to provide a methodology by which the fair market value of the assets is increased; to require that the courts liberally construe this Act; to provide for other matters relative to the foregoing; to provide for severability; to provide an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by striking in its entirety Chapter 14, relating to asbestos and silica claims, and inserting in its place a new Chapter 14 to read as follows:

"CHAPTER 14

51-14-1.

(a) The General Assembly finds that:

(1) Asbestos is a mineral that was widely used prior to the 1980's for insulation, fire-proofing, and other purposes;

(2) Many American workers and others were exposed to asbestos, especially during and after World War II, at shipyards and other sites, prior to the advent of regulation by the United States Occupational Safety and Health Administration in the early 1970's;

(3) Exposure to asbestos is associated with various types of cancer, including mesothelioma, as well as nonmalignant conditions such as asbestosis and diffuse pleural thickening;

(4) Diseases caused by asbestos exposure often have long latency periods;

(5) Silica is a naturally occurring mineral and is the second most common constituent of the earth's crust. Crystalline silica in the form of quartz is present in sand, gravel, soil, and rocks;

(6) Silica related illnesses, including silicosis, can develop from the inhalation of respirable silica dust. Silicosis was widely recognized as an occupational disease many years ago;

(7) Concerns about statutes of limitations may prompt unimpaired asbestos and silica claimants to bring lawsuits to protect their ability to recover for their potentially progressive occupational disease;

(8) It is proper for the General Assembly to support and protect the Georgia courts from the massive litigation expense and the crowding of trial dockets caused by asbestos and silica litigation;

(9) The cost of compensating exposed individuals who are not sick and legal costs spent on their claims jeopardize recoveries both now and in the future by people with cancer or other serious asbestos related injuries; threaten the savings, retirement benefits, and jobs of current and retired employees of the defendants; and adversely affect the communities in which the defendants operate;

(10) In February, 2003, the American Bar Association Commission on Asbestos Litigation, with input from ten of the nation's most prominent physicians in the area of pulmonary function, adopted the 'ABA Standard For Non-Malignant Asbestos-Related Disease Claims,' which sets forth medical criteria for demonstrating asbestos related impairment that provide the underlying framework for the criteria set forth in this chapter and in similar legislation adopted in several other states;

(11) Ohio, Florida, Texas, Kansas, South Carolina, and Tennessee have enacted legislation similar to this chapter that, among other things, sets medical criteria governing asbestos or silica claims or both, tolls statutes of limitations, and requires persons alleging nonmalignant disease claims to demonstrate physical impairment as a prerequisite to filing or maintaining such claims; and

(12) Sound public policy requires deferring the claims of persons exposed to asbestos or silica and who are not presently impaired in order to give priority to those cases that involve claims of actual and current conditions of impairment; preserve compensation for people with cancer and other serious injuries; and safeguard the jobs, benefits, and savings of workers.

(b) It is the purpose of this chapter to:

(1) Give priority to claimants who can demonstrate actual physical harm or illness caused by asbestos or silica;

(2) Preserve the rights of claimants to pursue asbestos or silica claims if an exposed person becomes sick in the future;

(3) Enhance the ability of the courts to supervise and control asbestos litigation and silica litigation; and

(4) Conserve resources to allow compensation of claimants who have cancer and others who are impaired as a result of exposure to asbestos or silica while securing the right to similar compensation for those who may suffer physical impairment in the future.

51-14-2.

This chapter applies to any claim defined in this chapter as an asbestos claim or as a silica claim.

51-14-3.

As used in this chapter, the term:

(1) 'Asbestos' means chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated or altered, including but not limited to all minerals defined as asbestos in 29 C.F.R. 1910.

(2)(A) 'Asbestos claim' means any claim, wherever or whenever made, for damages, losses, indemnification, contribution, loss of consortium, or other relief arising out of, based on, or in any way related to the health effects of exposure to asbestos, including, but not limited to:

(i) Any claim, to the extent recognized by applicable state law now or in the future, for:

(I) Personal injury or death;

(II) Mental or emotional injury;

(III) Risk or fear of disease or other injury;

(IV) The costs of medical monitoring or surveillance; or

(V) Damage or loss caused by the installation, presence, or removal of asbestos; and

(ii) Any claim made by or on behalf of an exposed person or based on that exposed person's exposure to asbestos, including a representative, spouse, parent, child, or other relative of the exposed person.

(B) 'Asbestos claim' shall not mean a claim brought under:

(i) A workers' compensation law administered by this state to provide benefits, funded by a responsible employer or its insurance carrier, for occupational diseases or injuries or for disability or death caused by occupational diseases or injuries;

(ii) The Act of April 22, 1908, known as the Federal Employers' Liability Act, 45 U.S.C. Section 51, et seq.;

(iii) The Longshore and Harbor Workers' Compensation Act, 33 U.S.C. Sections 901-944, 948-950; or

(iv) The Federal Employees Compensation Act, 5 U.S.C. Chapter 81.

(3) 'Asbestosis' means bilateral diffuse interstitial fibrosis of the lungs caused by inhalation of asbestos.

(4) 'Board certified internist' means a qualified physician licensed to practice medicine who is currently certified by the American Board of Internal Medicine.

(5) 'Board certified occupational medicine physician' means a qualified physician licensed to practice medicine who is currently certified in the subspecialty of occupational medicine by the American Board of Preventive Medicine.

(6) 'Board certified oncologist' means a qualified physician licensed to practice medicine who is currently certified in the subspecialty of medical oncology by the American Board of Internal Medicine.

(7) 'Board certified pathologist' means a qualified physician licensed to practice medicine who holds primary certification in anatomic pathology or combined anatomic or clinical pathology from the American Board of Pathology and whose professional practice is principally in the field of pathology and involves regular evaluation of pathology materials obtained from surgical or post-mortem specimens.

(8) 'Board certified pulmonologist' means a qualified physician licensed to practice medicine who is currently certified in the subspecialty of pulmonary medicine by the American Board of Internal Medicine.

(9) 'Certified B-reader' means a qualified physician who has successfully passed the B-reader certification examination for X-ray interpretation sponsored by the National Institute for Occupational Safety and Health and whose certification was current at the time of any readings required by this chapter.

(10) 'Chest X-rays' means films taken in two views (PA and Lateral) for reading in accordance with the radiological standards established by the International Labor Office, as interpreted by a certified B-reader.

(11) 'Claimant' means a party seeking recovery of damages for an asbestos claim or silica claim, including the exposed person, any other plaintiff making a claim as a result of the exposed person's exposure to asbestos or silica, counterclaimant, cross-claimant, or third-party plaintiff. If a claim is brought through or on behalf of an estate, the term includes the claimant's decedent; if a claim is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian.

(12) 'Exposed person' means any person whose exposure to asbestos or silica is the basis for an asbestos claim or a silica claim.

(13) 'FEV-1' means forced expiratory volume in the first second, which is the maximal volume of air expelled in one second during performance of simple spirometric tests.
(14) 'FVC' means forced vital capacity, which is the maximal volume of air expired with maximum effort from a position of full inspiration.
(15) 'ILO system' means the radiological ratings of the International Labor Office set forth in *Guidelines for the Use of ILO International Classification of Radiographs of Pneumoconioses*, revised edition, as amended from time to time by the International Labor Office.
(16) 'Lower limit of normal' means the fifth percentile of healthy populations based on age, height, and gender, as referenced in the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, fifth edition, as amended from time to time by the American Medical Association.
(17) In the context of an asbestos claim, 'prima-facie evidence of physical impairment' means:

(A) For an asbestos claim that accrued before April 12, 2005:

(i) For an asbestos claim alleging mesothelioma: that a claimant alleges mesothelioma caused by exposure to asbestos, and no further prima-facie evidence of physical impairment shall be required;

(ii) For an asbestos claim alleging cancer other than mesothelioma: that a physician licensed to practice medicine (who need not be a 'qualified physician' as defined in this Code section) has signed a medical report certifying to a reasonable degree of medical probability that the exposed person's exposure to asbestos was a contributing factor to the diagnosed cancer other than mesothelioma and attaching whatever evidence the physician relied upon in determining that the exposed person has or had an asbestos related cancer; and

(iii) For an asbestos claim alleging nonmalignant injury: that a physician licensed to practice medicine (who need not be a 'qualified physician' as defined in this Code section) has signed a medical report certifying to a reasonable degree of medical probability that the exposed person's exposure to asbestos was a contributing factor to the diagnosed nonmalignant asbestos injury and attaching whatever evidence the physician relied upon in determining that the exposed person has or had a nonmalignant asbestos injury;

(B) For an asbestos claim that accrued on or after May 1, 2007:

(i) For an asbestos claim alleging mesothelioma: that a claimant alleges mesothelioma caused by exposure to asbestos, and no further prima-facie evidence of physical impairment shall be required;

(ii) For an asbestos claim alleging cancer other than mesothelioma: that a board certified internist, board certified pulmonologist, board certified pathologist, board certified occupational medicine physician, or board certified oncologist has signed a medical report certifying to a reasonable degree of medical probability that the exposed person has or had a cancer other than mesothelioma; that the cancer is a

primary cancer; that exposure to asbestos was a substantial contributing factor to the diagnosed cancer; and that other potential causes (such as smoking) were not the sole or most likely cause of the injury at issue;

(iii) For an asbestos claim alleging nonmalignant injury: that a board certified internist, board certified pulmonologist, board certified pathologist, board certified occupational medicine physician, or board certified oncologist has signed a medical report stating that the exposed person suffers or suffered from a nonmalignant asbestos injury and:

(I) Verifying that the doctor signing the medical report or a medical professional or professionals employed by and under the direct supervision and control of that doctor has taken histories as defined below or, alternatively, confirming that the signing doctor is relying on such histories taken or obtained by another physician or physicians who actually treated the exposed person or who had a doctor-patient relationship with the exposed person or by a medical professional or professionals employed by and under the direct supervision and control of such other physician or physicians, with such histories to consist of the following:

(a) A detailed occupational and exposure history from the exposed person or, if the exposed person is deceased or incapable of providing such history, from the person or persons most knowledgeable about the exposures that form the basis for the asbestos claim. The history shall include all of the exposed person's principal employments and his or her exposures to airborne contaminants that can cause pulmonary impairment, including, but not limited to, asbestos, silica, and other disease-causing dusts, and the nature, duration, and level of any such exposure; and

(b) A detailed medical and smoking history from the exposed person or, if the exposed person is deceased or incapable of providing such history, from the person or persons most knowledgeable about the exposed person's medical and smoking history, or the exposed person's medical records, or both, that includes a thorough review of the exposed person's past and present medical problems and their most probable cause;

(II) Setting out the details of the exposed person's occupational, medical, and smoking histories and verifying that at least 15 years have elapsed between the exposed person's first exposure to asbestos and the time of diagnosis;

(III) Verifying that the exposed person has:

(a) An ILO quality 1 chest X-ray taken in accordance with all applicable state and federal regulatory standards, and that the X-ray has been read by a certified B-reader according to the ILO system of classification as showing bilateral small irregular opacities (s, t, or u) graded 1/1 or higher or bilateral diffuse pleural thickening graded b2 or higher including blunting of the costophrenic angle; provided, however, that in a death case where no pathology is available, the

necessary radiologic findings may be made with a quality 2 film if a quality 1 film is not available; or

(b) Pathological asbestosis graded 1(B) or higher under the criteria published in the Asbestos-Associated Diseases, Special Issue of the *Archives of Pathological and Laboratory Medicine*, Volume 106, Number 11, Appendix 3, as amended from time to time;

(IV) Verifying that the exposed person has pulmonary impairment related to asbestos as demonstrated by pulmonary function testing, performed using equipment, methods of calibration, and techniques that meet the criteria incorporated in the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, fifth edition, and reported as set forth in 20 C.F.R. 404, Subpt. P. App 1, Part (A) Section 3.00 (E) and (F), as amended from time to time by the American Medical Association, and the interpretative standards of the American Thoracic Society, *Lung Function Testing: Selection of Reference Values and Interpretive Strategies*, 144 Am. Rev. Resp. Dis. 1202-1218 (1991), as amended from time to time by the American Thoracic Society, that shows:

(a) Forced vital capacity below the lower limit of normal and FEV1/FVC ratio, using actual values, at or above the lower limit of normal; or

(b) Total lung capacity, by plethysmography or timed gas dilution, below the lower limit of normal,

except that this subdivision (17)(B)(iii)(IV) shall not apply if the medical report includes the pathological evidence set forth in clause (17)(B)(iii)(III)(b) of this Code section;

(V)(a) Exception to pulmonary function test requirement in subdivision (17)(B)(iii)(IV) of this Code section: If the doctor signing the medical report states in the medical report that the exposed person's medical condition or process prevents the pulmonary function test described in subdivision (17)(B)(iii)(IV) of this Code section from being performed or makes the results of such test an unreliable indicator of physical impairment, a board certified internist, board certified pulmonologist, board certified pathologist, board certified occupational medicine physician, or board certified oncologist (none of whom need be a 'qualified physician' as defined in this Code section), independent from the physician signing the report required in this subdivision, must provide a report which states to a reasonable degree of medical probability that the exposed person has or had a nonmalignant asbestos related condition causing physical impairment equivalent to that required in subdivision (17)(B)(iii)(IV) of this Code section and states the reasons why the pulmonary function test could not be performed or would be an unreliable indicator of physical impairment.

(b) Exception to X-ray requirement in clause (17)(B)(iii)(III)(a) of this Code section: Alternatively and not to be used in conjunction with clause (17)(B)(iii)(V)(a) of this Code section, if the doctor signing the medical report

states in the medical report that the exposed person's medical condition or process prevents a physician from being able to diagnose or evaluate that exposed person sufficiently to make a determination as to whether that exposed person meets the requirements of clause (17)(B)(iii)(III)(a) of this Code section, the claimant may serve on each defendant a report by a board certified internist, board certified pulmonologist, board certified pathologist, board certified occupational medicine physician, or board certified oncologist (none of whom need be a 'qualified physician' as defined in this Code section) that:

(1) Verifies that the physician has or had a doctor patient relationship with the exposed person;

(2) Verifies that the exposed person has or had asbestos related pulmonary impairment as demonstrated by pulmonary function testing showing:

(A) Forced vital capacity below the lower limit of normal and total lung capacity, by plethysmography, below the lower limit of normal; or

(B) Forced vital capacity below the lower limit of normal and FEV1/FVC ratio (using actual values) at or above the lower limit of normal; and

(3) Verifies that the exposed person has a chest X-ray and computed tomography scan or high resolution computed tomography scan read by the physician or a board certified internist, board certified pulmonologist, board certified pathologist, board certified occupational medicine physician, board certified oncologist, or board certified radiologist (none of whom need be a 'qualified physician' as defined in this Code section) showing either bilateral pleural disease or bilateral parenchymal disease diagnosed and reported as being a consequence of asbestos exposure; and

(VI) Verifies that the doctor signing the medical report has concluded to a reasonable degree of medical probability that exposure to asbestos was a substantial contributing factor to the exposed person's physical impairment.

Copies of the B-reading, the pulmonary function tests, including printouts of the flow volume loops and all other elements required to demonstrate compliance with the equipment, quality, interpretation, and reporting standards set forth in this paragraph (17), the medical report (in the form of an affidavit as required by subparagraph (A) of paragraph (2) of Code Section 51-14-6), and all other required reports shall be submitted as required by this chapter. All such reports, as well as all other evidence used to establish prima-facie evidence of physical impairment, must comply, to the extent applicable, with the technical recommendations for examinations, testing procedures, quality assurance, quality controls, and equipment in the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, fifth edition, as amended from time to time by the American Medical Association, and the most current version of the Official Statements of the American Thoracic Society regarding lung function testing. Testing performed in a hospital or other medical facility that is fully licensed and accredited by all appropriate regulatory bodies in the state in which the facility is located is presumed

to meet the requirements of this chapter. This presumption may be rebutted by evidence demonstrating that the accreditation or licensing of the hospital or other medical facility has lapsed or by providing specific facts demonstrating that the technical recommendations for examinations, testing procedures, quality assurance, quality control, and equipment have not been followed. All such reports, as well as all other evidence used to establish prima-facie evidence of physical impairment, must not be obtained through testing or examinations that violate any applicable law, regulation, licensing requirement, or medical code of practice and must not be obtained under the condition that the exposed person retain legal services in exchange for the examination, testing, or screening. Failure to attach the required reports or demonstration by any party that the reports do not satisfy the standards set forth in this paragraph (17) shall result in the dismissal of the asbestos claim, without prejudice, upon motion of any party.

(18) In the context of a silica claim, 'prima-facie evidence of physical impairment' means:

(A) For a silica claim that accrued before April 12, 2005, that a physician licensed to practice medicine (who need not be a 'qualified physician' as defined in this Code section) has signed a medical report certifying to a reasonable degree of medical probability that the exposed person's exposure to silica was a contributing factor to the claimed injury and attached whatever evidence the physician relied upon in determining that the exposed person has or had a silica related injury; and

(B) For a silica claim that accrued on or after May 1, 2007:

(i) A medical report asserting that the exposed person has or had a silica related lung cancer and:

(I) Certifying to a reasonable degree of medical probability that the cancer is a primary lung cancer; and

(II) Signed by a board certified internist, board certified pulmonologist, board certified pathologist, board certified occupational medicine physician, or board certified oncologist stating to a reasonable degree of medical probability that exposure to silica was a substantial contributing factor to the lung cancer with underlying silicosis demonstrated by an X-ray that has been read by a certified B-reader according to the ILO system of classification as showing bilateral nodular opacities (p, q, or r) occurring primarily in the upper lung fields, graded 1/1 or higher, and that the lung cancer was not more probably the sole result of causes other than the silica exposure revealed by the exposed person's occupational, silica exposure, medical, and smoking histories;

(ii) A medical report asserting that the exposed person has or had silica related progressive massive fibrosis or acute silicoproteinosis, or silicosis complicated by documented tuberculosis, signed by a board certified internist, board certified pulmonologist, board certified pathologist, board certified occupational medicine physician, or board certified oncologist; or

(iii) A medical report signed by a board certified internist, board certified pulmonologist, board certified pathologist, board certified occupational medicine physician, or board certified oncologist stating that the exposed person suffers from other stages of nonmalignant disease related to silicosis other than those set forth in divisions (i) and (ii) of this paragraph, and:

(I) Verifying that the doctor signing the medical report or a medical professional or professionals employed by and under the direct supervision and control of that doctor has taken histories as defined below or, alternatively, confirming that the signing doctor is relying on such histories taken or obtained by another physician or physicians who actually treated the exposed person or who had a doctor-patient relationship with the exposed person or by a medical professional or professionals employed by and under the direct supervision and control of such other physician or physicians, with such histories to consist of the following:

(a) A detailed occupational and exposure history from the exposed person or, if the exposed person is deceased or incapable of providing such history, from the person or persons most knowledgeable about the exposures that form the basis for the silica claim. The history shall include all of the exposed person's principal employments and his or her exposures to airborne contaminants that can cause pulmonary impairment, including, but not limited to, asbestos, silica, and other disease-causing dusts, and the nature, duration, and level of any such exposure; and

(b) A detailed medical and smoking history from the exposed person or, if the exposed person is deceased or incapable of providing such history, from the person or persons most knowledgeable about the exposed person's medical and smoking history, or the exposed person's medical records, or both, that includes a thorough review of the exposed person's past and present medical problems and their most probable cause;

(II) Setting out the details of the exposed person's occupational, medical, and smoking histories and verifying a sufficient latency period for the applicable stage of silicosis;

(III) Verifying that the exposed person has at least Class 2 or higher impairment due to silicosis, as set forth in the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, fifth edition, as amended from time to time by the American Medical Association and:

(a) Has an ILO quality 1 chest X-ray taken in accordance with all applicable state and federal regulatory standards, and that the X-ray has been read by a certified B-reader according to the ILO system of classification as showing bilateral nodular opacities (p, q, or r) occurring primarily in the upper lung fields, graded 1/1 or higher; provided, however, that in a death case where no pathology is available, the necessary radiologic findings may be made with a quality 2 film if a quality 1 film is not available; or

(b) Has pathological demonstration of classic silicotic nodules exceeding 1 centimeter in diameter as set forth in 112 *Archives of Pathological & Laboratory Medicine* 7 (July 1988), as amended from time to time; and

(IV) Verifying that the doctor signing the medical report has concluded to a reasonable degree of medical probability that the exposure to silica was a substantial contributing factor to the exposed person's physical impairment.

Copies of the B-reading, the pulmonary function tests, including printouts of the flow volume loops and all other elements required to demonstrate compliance with the equipment, quality, interpretation, and reporting standards set forth in this paragraph (18), and the medical report (in the form of an affidavit as required by subparagraph (A) of paragraph (2) of Code Section 51-14-6), and all other required reports shall be submitted as required by this chapter. All such reports, as well as all other evidence used to establish prima-facie evidence of physical impairment, must comply, to the extent applicable, with the technical recommendations for examinations, testing procedures, quality assurance, quality controls, and equipment in the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, fifth edition, as amended from time to time by the American Medical Association, and the most current version of the Official Statements of the American Thoracic Society regarding lung function testing. Testing performed in a hospital or other medical facility that is fully licensed and accredited by all appropriate regulatory bodies in the state in which the facility is located is presumed to meet the requirements of this chapter. This presumption may be rebutted by evidence demonstrating that the accreditation or licensing of the hospital or other medical facility has lapsed or by providing specific facts demonstrating that the technical recommendations for examinations, testing procedures, quality assurance, quality control, and equipment have not been followed. All such reports, as well as all other evidence used to establish prima-facie evidence of physical impairment, must not be obtained through testing or examinations that violate any applicable law, regulation, licensing requirement, or medical code of practice, and must not be obtained under the condition that the exposed person retain legal services in exchange for the examination, testing, or screening. Failure to attach the required reports or demonstration by any party that the reports do not satisfy the standards set forth in this paragraph (18) shall result in the dismissal of the silica claim, without prejudice, upon motion of any party.

(19) 'Qualified physician' means a medical doctor, who:

(A) Spends no more than 35 percent of his or her professional practice time in providing consulting or expert services in connection with actual or potential civil actions, and whose medical group, professional corporation, clinic, or other affiliated group earns not more than 50 percent of its revenues from providing such services; provided, however, that the trial court, in its discretion, may allow a physician who meets the other requirements of this chapter but does not meet the time and revenue requirements of this subparagraph to submit a report required by this chapter if the trial court first makes an evidentiary finding (after all parties have had a reasonable

opportunity to present evidence) that it would be manifestly unjust not to allow the physician at issue to submit the report and makes specific and detailed findings, setting forth the bases therefor, that the physician's opinions appear to be reliable medical opinions in that they are supported by documented, reliable medical evidence that was obtained through testing or examinations that comply with and do not violate any applicable law, regulation, licensing requirement, or medical code of practice and that the opinions are not the product of bias or the result of financial influence due to his or her role as a paid expert. The cost of retaining another physician who is qualified pursuant to this subparagraph for the purpose of submitting a report required by this chapter may not be considered in determining manifest injustice, but the availability or unavailability of other physicians who meet the time and revenue requirements of this subparagraph shall be considered as a relevant factor; and

(B) Does not require as a condition of diagnosing, examining, testing, screening, or treating the exposed person that legal services be retained by the exposed person or any other person pursuing an asbestos or silica claim based on the exposed person's exposure to asbestos or silica.

The board certified internist, board certified pulmonologist, board certified pathologist, board certified occupational medicine physician, or board certified oncologist who submits a report under this chapter may be an expert witness retained by counsel for the exposed person or claimant, so long as the physician otherwise meets the requirements of this chapter and any other applicable Code sections governing the qualifications of expert witnesses.

(20) 'Silica' means a group of naturally occurring crystalline forms of silicon dioxide, including, but not limited to, quartz and silica sand, whether in the form of respirable free silica or any quartz-containing or crystalline silica-containing dust, in the form of a quartz-containing by-product or crystalline silica-containing by-product, or dust released from individual or commercial use, release, or disturbance of silica sand, silicon dioxide, or crystalline-silica containing media, consumables, or materials.

(21)(A) 'Silica claim' means any claim, wherever or whenever made, for damages, losses, indemnification, contribution, loss of consortium, or other relief arising out of, based on, or in any way related to the health effects of exposure to silica, including, but not limited to:

(i) Any claim, to the extent recognized by applicable state law now or in the future, for:

(I) Personal injury or death;

(II) Mental or emotional injury;

(III) Risk or fear of disease or other injury; or

(IV) The costs of medical monitoring or surveillance; and

(ii) Any claim made by or on behalf of an exposed person or based on that exposed person's exposure to silica, including a representative, spouse, parent, child, or other relative of the exposed person.

(B) 'Silica claim' shall not mean a claim brought under:

(i) A workers' compensation law administered by this state to provide benefits, funded by a responsible employer or its insurance carrier, for occupational diseases or injuries or for disability or death caused by occupational diseases or injuries;

(ii) The Act of April 22, 1908, known as the Federal Employers' Liability Act, 45 U.S.C. Section 51, et seq.;

(iii) The Longshore and Harbor Workers' Compensation Act, 33 U.S.C. Sections 901-944, 948-950; or

(iv) The Federal Employees Compensation Act, 5 U.S.C. Chapter 81.

(22) 'Silicosis' means nodular interstitial fibrosis of the lung produced by inhalation of silica.

(23) 'Substantial contributing factor' means that exposure to asbestos or silica took place on a regular basis over an extended period of time and in close proximity to the exposed person and was a factor without which the physical impairment in question would not have occurred.

(24) 'Total lung capacity' means the volume of gas contained in the lungs at the end of a maximal inspiration.

51-14-4.

(a) Prima-facie evidence of physical impairment of the exposed person as defined in paragraph (17) or (18) of Code Section 51-14-3 shall be an essential element of an asbestos claim or silica claim.

(b) In order to bring or maintain an asbestos claim or silica claim, the claimant shall submit prima-facie evidence of physical impairment in accordance with the requirements of this chapter.

51-14-5.

Notwithstanding any other provision of law, with respect to any asbestos claim or silica claim not barred as of May 1, 2007, the limitations period shall not begin to run until the exposed person, or any plaintiff making an asbestos claim or silica claim based on the exposed person's exposure to asbestos or silica, obtains, or through the exercise of reasonable diligence should have obtained, prima-facie evidence of physical impairment, as defined in paragraph (17) or (18) of Code Section 51-14-3.

51-14-6.

Subject to the provisions of Code Section 51-14-12:

(1) Any asbestos claim or silica claim pending in this state on May 1, 2007, shall be dismissed within 180 days after May 1, 2007, without prejudice unless:

(A) All parties stipulate by no less than 60 days prior to the commencement of trial that the plaintiff has established prima-facie evidence of physical impairment with respect to an asbestos claim or silica claim; or

(B) The trial court in which the complaint was initially filed issues an order that the plaintiff has established prima-facie evidence of physical impairment with respect to an asbestos claim or silica claim. Such an order shall be issued only if the following conditions and procedures are met:

(i) By no less than 60 days prior to the commencement of trial, the plaintiff files with the trial court and serves on each defendant named in the complaint or on counsel designated by each defendant the medical documentation necessary to establish prima-facie evidence of physical impairment;

(ii) Within 30 days of service of plaintiff's documentation establishing prima-facie evidence of physical impairment, any defendant may file an opposition with the trial court challenging plaintiff's prima-facie evidence of physical impairment. To the extent any such opposition is based upon the medical opinion of a licensed physician, that physician shall be a qualified physician, as that term is defined in subparagraph (A) of paragraph (19) of Code Section 51-14-3, and shall be either a board certified internist, a board certified pathologist, a board certified pulmonologist, a board certified occupational medicine physician, a board certified oncologist, or a certified B-reader. Defendant's opposition shall be filed with the trial court and served on plaintiff's counsel and each defendant;

(iii) If a defendant does not file an opposition within the time permitted, the trial court shall determine if the plaintiff has established prima-facie evidence of physical impairment in a timely manner based on the papers and documentation submitted to the trial court;

(iv) If a defendant files an objection, then within ten days of service of defendant's opposition, the plaintiff may file a reply with the trial court. The reply must be served on each defendant; and

(v) The trial court shall determine if the plaintiff has established prima-facie evidence of physical impairment in a timely manner based on the papers and documentation submitted to the trial court. A hearing will be conducted only if the trial court so orders on its own motion or if, in the exercise of discretion, the trial court grants a party's request for a hearing. No testimony shall be taken at the hearing. A decision of the trial court not to grant a request for a hearing may not be appealed and does not constitute reversible error. If the trial court determines that the plaintiff has failed to establish prima-facie evidence of physical impairment, it shall dismiss the plaintiff's complaint without prejudice;

In the event a trial is scheduled to commence in less than 60 days after May 1, 2007, a trial court can shorten the deadlines contained in this paragraph as necessary in order to make a determination regarding the prima-facie evidence of physical impairment before trial commences; and

(2)(A) The plaintiff in any asbestos claim or silica claim filed in this state on or after May 1, 2007, shall file together with the complaint a medical report (which shall be in the form of an affidavit) and accompanying documentation setting forth the medical

findings necessary to establish prima-facie evidence of physical impairment as provided in paragraph (17) or (18) of Code Section 51-14-3. In addition, the plaintiff's complaint shall allege with specificity that the plaintiff satisfies the prima-facie evidence of physical impairment with respect to an asbestos claim or silica claim.

(B) Within 90 days of service of plaintiff's complaint, any defendant may file an opposition with the trial court challenging plaintiff's prima-facie evidence of physical impairment. To the extent any such opposition is based upon the medical opinion of a licensed physician, that physician shall be a qualified physician, as that term is defined in subparagraph (A) of paragraph (19) of Code Section 51-14-3, and shall be either a board certified internist, a board certified pathologist, a board certified pulmonologist, a board certified occupational medicine physician, a board certified oncologist, or a certified B-reader. Defendant's opposition shall be filed with the trial court and served on plaintiff's counsel and each defendant.

(C) If the defendant does not file an opposition challenging plaintiff's prima-facie evidence of physical impairment within the time permitted, the trial court shall determine if the plaintiff has established prima-facie evidence of physical impairment based on the papers and documentation submitted to the trial court. The trial court's decision shall be made in a timely manner.

(D) If the defendant files an objection, the plaintiff may file a reply with the trial court within ten days of service of defendant's opposition. The reply must be served on each defendant.

(E) The trial court shall determine if the plaintiff has established prima-facie evidence of physical impairment with respect to an asbestos claim or silica claim in a timely manner based on the papers and documentation submitted to the trial court. A hearing will be conducted only if the trial court so orders on its own motion, or if, in the exercise of discretion, the trial court grants a party's request for a hearing. No testimony shall be taken at the hearing. A decision of the trial court not to grant a request for a hearing may not be appealed and does not constitute reversible error. If the trial court determines that the plaintiff has failed to establish prima-facie evidence of physical impairment, it shall dismiss the plaintiff's complaint without prejudice.

51-14-7.

(a) All asbestos claims and silica claims filed in this state on or after May 1, 2007, shall include with the complaint a sworn information form containing the following information:

(1) The exposed person's name, address, date of birth, social security number, and marital status;

(2) If the exposed person alleges exposure to asbestos or silica through the testimony of another person or other than by direct or bystander exposure to a product or products, the name, address, date of birth, social security number, and marital status for each person by which claimant alleges exposure, hereafter the 'index person,' and the claimant's relationship to each such person;

(3) The specific location of each alleged exposure;
(4) The specific asbestos-containing product or silica-containing product to which the exposed person was exposed and the manufacturer of each product;
(5) The beginning and ending dates of each alleged exposure as to each asbestos-containing product or silica-containing product for each location at which exposure allegedly took place for plaintiff and for each index person;
(6) The occupation and name of employer of the exposed person at the time of each alleged exposure;
(7) The specific condition related to asbestos or silica claimed to exist;
(8) Any supporting documentation of the condition claimed to exist; and
(9) The identity of any bankruptcy trust to which a claim has been submitted concerning any asbestos or silica injury of the exposed person, attaching any claim form or other information submitted to such trust or trusts with respect to the exposed person. Plaintiff must also identify any bankruptcy trust that the plaintiff believes is or may be liable for all or part of the injury at issue, even if a claim has not been submitted to that trust at the time the complaint is filed.

(b) If a plaintiff filing an asbestos claim or silica claim fails to file with the complaint a sworn information form or files a sworn information form that is allegedly defective or incomplete, and one or more defendants allege, with specificity, by motion to dismiss filed on or before the close of discovery, that said sworn information form is missing, defective, or incomplete, the plaintiff's complaint shall be dismissed without prejudice for failure to state a claim, except that the plaintiff may file the sworn information form or cure the alleged defect or omission any time between service of the motion to dismiss and 30 days after any order of dismissal identifying the defective or missing item or items. The trial court may, in the exercise of its discretion, extend the time for filing the missing information as it shall determine justice requires.

(c) All asbestos claims and silica claims along with sworn information forms must be individually filed in separate civil actions except that claims relating to the exposure to asbestos or silica for the same exposed person whose alleged injury is the basis for the civil action may be joined in a single action. Otherwise, no claims on behalf of a group or class of persons shall be joined in single civil action.

51-14-8.

(a) Until such time as the trial court enters an order determining that the plaintiff has established prima-facie evidence of physical impairment, no asbestos claim or silica claim shall be subject to discovery, except discovery related to establishing or challenging the prima-facie evidence of physical impairment or by order of the trial court upon motion of one of the parties and for good cause shown.

(b) The medical criteria set forth in this chapter to establish prima-facie evidence of physical impairment are solely for the purpose of determining whether a claim meets the criteria to proceed in court. The fact that a plaintiff satisfies the criteria necessary to

establish prima-facie evidence of physical impairment for an asbestos claim or silica claim shall not be construed as an admission or determination that the exposed person in fact has a condition related to exposure to asbestos or silica and shall not be cited, referred to, or otherwise used at trial.

(c) Unless stipulated to by the parties, an expert report submitted for the purpose of establishing or challenging prima-facie evidence of physical impairment is inadmissible for any other purpose.

51-14-9.

(a) Notwithstanding Code Section 1-2-6 or 1-2-10, a civil action alleging an asbestos claim or silica claim may only be brought or maintained in the courts of Georgia if the plaintiff, whether a citizen of Georgia or a citizen of some other state, is a resident of Georgia at the time of filing the action or the exposure to asbestos or silica on which the claim is based occurred in Georgia; provided, however, nothing contained in this chapter shall preclude a nonresident of Georgia who currently has a case pending in this state that was filed before April 12, 2005, from maintaining that asbestos claim or silica claim if that nonresident can establish prima-facie evidence of physical impairment with respect to an asbestos claim or silica claim as provided in paragraph (17) or (18) of Code Section 51-14-3. Civil actions alleging an asbestos claim or silica claim filed on or after May 1, 2007, must comply with the forum provisions set forth in this Code section. Civil actions alleging an asbestos claim or silica claim filed on or after April 12, 2005, and before May 1, 2007, must comply with the forum provisions of Code Section 51-14-8, as enacted on April 12, 2005, by 2005 Act No. 29 (Ga. L. 2005, p. 145) as they existed prior to May 1, 2007.

(b) The trial court, on motion of a defendant, shall dismiss each asbestos claim or silica claim that is subject to this chapter against the defendant unless the plaintiff files a written statement with the trial court electing to abate the plaintiff's claim against the defendant for a period of 180 days from the date the trial court disposes of the defendant's motions in order to afford the plaintiff an opportunity to file a new action on the claims in another state of the United States.

(c)(1) A trial court may not abate or dismiss a claim under this Code section until the defendant files with the trial court or with the clerk of the court a written stipulation that, with respect to a new action on the claim commenced by the plaintiff, the defendant waives the right to assert a statute of limitations defense in all other states of the United States in which the claim was not barred by limitations at the time the claim was filed in this state as necessary to effect a tolling of the limitations periods in those states beginning on the date the claim was filed in this state and ending on the date the claim is dismissed or the period of abatement ends. The fact that a claim subject to this Code section was barred by the statute of limitations in all other states of the United States at the time it was filed in this state shall not prevent the claim from being dismissed pursuant to this Code section and such claim shall be dismissed even if it can not be filed in another state. The trial court may not abate or dismiss a claim under this Code section

until the defendant files with the trial court or with the clerk of the court a written stipulation that, with respect to a new action on the claim commenced by the plaintiff in another state of the United States, the plaintiff may elect that the plaintiff and the defendant may rely on responses to discovery already provided under Georgia law, plus any additional discovery that may be conducted under the rules of civil procedure in another state, or use responses to discovery already provided and conduct additional discovery as permitted under the rules of civil procedure in such other state.

(2) If less than all of the defendants agree to provide the stipulations set forth in paragraph (1) of this subsection, then the court shall dismiss the claims against those defendants who so stipulate.

(d) To comply with this Code section in relation to an action that involves both claims that arose in this state and claims that arose outside this state, a trial court shall consider each claim individually and shall sever from the action the claims that are subject to this Code section.

(e) If a plaintiff alleges that the exposed person was exposed to asbestos or silica while located in more than one jurisdiction, the trial court shall determine, for purposes of this Code section, which of the jurisdictions is the most appropriate forum for the claim, considering the relative amounts and lengths of the exposed person's exposure to asbestos or silica in each jurisdiction.

51-14-10.

Notwithstanding any other provision of law, an asbestos claim or silica claim that meets the requirements of this chapter permitting a claim to be filed in this state may only be filed in the county where the plaintiff resides or a county in which the exposure to asbestos or silica on which the claim is based occurred. If a plaintiff alleges that an exposed person was exposed to asbestos or silica while located in more than one county, the trial court shall determine which of the counties is the most appropriate forum for the claim, considering the relative amounts and lengths of the exposed person's exposure to asbestos or silica in each of those counties.

51-14-11.

A trial court may consolidate for trial any number and type of asbestos claims or silica claims with the consent of all the parties. In the absence of such consent, the trial court may consolidate for trial only asbestos claims or silica claims relating to the same exposed person and members of his or her household.

51-14-12.

(a) Asbestos claims and silica claims that accrued before April 12, 2005, or that will accrue on or after May 1, 2007, shall be governed by this chapter, as it exists on May 1, 2007. Asbestos claims and silica claims that accrued on or after April 12, 2005, and before

May 1, 2007, shall be governed by Chapter 14 of Title 51, as enacted on April 12, 2005, by 2005 Act No. 29 (Ga. L. 2005, p. 145).

(b) Notwithstanding the foregoing, all asbestos claims and silica claims filed on or after April 12, 2005, and before May 1, 2007, shall be subject to and comply with the provisions of Code Sections 51-14-6, 51-14-7, 51-14-8, 51-14-9, and 51-14-10, as enacted on April 12, 2005, by 2005 Act No. 29 (Ga. L. 2005, p. 145). All asbestos claims and silica claims filed on or after May 1, 2007, shall be subject to and comply with Code Sections 51-14-7, 51-14-8, 51-14-9, 51-14-10, and 51-14-11, as they exist on May 1, 2007.

54-14-13.

In the event any part, portion, section, subsection, paragraph, sentence, clause, phrase, or word of this chapter shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other parts, portions, sections, subsections, paragraphs, sentences, clauses, phrases, or words of this chapter which shall remain of full force and effect as if the part, portion, section, subsection, paragraph, sentence, clause, phrase, or word so declared or adjudged invalid or unconstitutional were not originally a part hereof. For example, if a court determines that a particular word renders any portion or application of this chapter unconstitutional, in that event, the court shall strike that word and apply this chapter as if it were enacted without that word. The General Assembly declares that it would have passed the remaining parts of this chapter if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional. The General Assembly does not intend for this chapter to make any substantive change in the law governing claims that accrued before April 12, 2005, and has only included procedural provisions that govern where such claims can be filed and what early reports must be filed in such cases. This chapter shall be interpreted consistently with the General Assembly's intention not to make any substantive changes in the law applicable to cases that accrued before April 12, 2005. The General Assembly expressly declares its intent that Code Section 51-14-9 remain in full force and effect if any other part or parts of this chapter shall be declared or adjudged invalid or unconstitutional. The General Assembly further expressly declares its intent that, in the event any part, portion, section, subsection, paragraph, sentence, clause, phrase, or word of this chapter shall be declared or adjudged invalid or unconstitutional as applied to asbestos claims or silica claims that accrued before April 12, 2005, such adjudication shall in no manner affect the applicability of any part, portion, section, subsection, paragraph, sentence, clause, phrase, or word of this chapter to asbestos claims or silica claims that accrued or may accrue on or after May 1, 2007."

SECTION 2.

Said Title 51 of the Official Code of Georgia Annotated, relating to torts, is further amended by inserting at the end thereof a new Chapter 15 to read as follows:

"CHAPTER 15

51-15-1.

The General Assembly finds that the number of asbestos related claims has increased significantly in recent years and threatens the continued viability of a number of uniquely situated companies that have not ever manufactured, sold, or distributed asbestos or asbestos products and are argued to be liable only as successor corporations. This liability has created an overpowering public necessity to provide an immediate, clarifying, and remedial legislative solution. The General Assembly intends that the cumulative recovery by all asbestos claimants from innocent successors be limited, and intends to simply clarify and fix the form of asbestos claimants' remedies without impairing their substantive rights and finds that there are no alternative means to meet this public necessity. The General Assembly finds that Pennsylvania, Ohio, Texas, Mississippi, Florida, and South Carolina have enacted legislation similar to this chapter that, among other things, provides limitations of liabilities for asbestos claims for innocent successors. The General Assembly finds the public interest as a whole is best served by providing relief to these innocent successors so that they may remain viable and continue to contribute to this state. The General Assembly further finds that Georgia's successor liability statutes were never intended or contemplated to impose liability on successors in the situation covered by this chapter.

51-15-2.

As used in this chapter, the term:

(1)(A) 'Asbestos claim' means any claim, wherever or whenever made, for damages, losses, indemnification, contribution, loss of consortium, or other relief arising out of, based on, or in any way related to the health effects of exposure to asbestos, including, but not limited to:

(i) Any claim, to the extent recognized by applicable state law now or in the future, for:

(I) Personal injury or death;

(II) Mental or emotional injury;

(III) Risk or fear of disease or other injury;

(IV) The costs of medical monitoring or surveillance; or

(V) Damage or loss caused by the installation, presence, or removal of asbestos; and

(ii) Any claim made by or on behalf of an exposed person or based on that exposed person's exposure to asbestos, including a representative, spouse, parent, child, or other relative of the exposed person.

(B) 'Asbestos claim' shall not mean a claim brought under:

(i) A workers' compensation law administered by this state to provide benefits, funded by a responsible employer or its insurance carrier, for occupational diseases or injuries or for disability or death caused by occupational diseases or injuries;

(ii) The Act of April 22, 1908, known as the Federal Employers' Liability Act, 45 U.S.C. Section 51, et seq.;

(C) The Longshore and Harbor Workers' Compensation Act, 33 U.S.C. Sections 901-944, 948-950; or

(D) The Federal Employees Compensation Act, 5 U.S.C. Chapter 81.

(2) 'Corporation' means a corporation for profit, including a domestic corporation organized under the laws of this state or a foreign corporation organized under laws other than the laws of this state.

(3) 'Successor' means a corporation that assumes or incurs, or has assumed or incurred, successor asbestos related liabilities.

(4) 'Successor asbestos related liabilities' means any liabilities, whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due, which are related in any way to asbestos claims and were assumed or incurred by a corporation as a result of or in connection with a merger or consolidation, or the plan of merger or consolidation related to the merger or consolidation, with or into another corporation, or which are related in any way to asbestos claims based on the exercise of control or the ownership of stock of the corporation before the merger or consolidation. The term includes liabilities that, after the time of the merger or consolidation for which the fair market value of total gross assets is determined under Code Section 51-15-4, were or are paid or otherwise discharged, or committed to be paid or otherwise discharged, by or on behalf of the corporation, or by a successor of the corporation, or by or on behalf of a transferor, in connection with settlements, judgments, or other discharges in this state or another jurisdiction.

(5) 'Transferor' means a corporation from which successor asbestos related liabilities are or were assumed or incurred.

51-15-3.

(a) The limitations contained in Code Section 51-15-4 apply to a domestic or foreign corporation that is a successor and became a successor before January 1, 1972, or is any of that successor corporation's successor corporation.

(b) The limitations contained in Code Section 51-15-4 do not apply to:

(1) Any claim against a corporation that does not constitute a successor asbestos related liability;

(2) An insurance corporation;

(3) Any obligations under the federal National Labor Relations Act or under any collective bargaining agreement; or

(4) A successor that, after a merger or consolidation, continued in the business of mining asbestos, in the business of selling or distributing asbestos fibers, or in the business of manufacturing, distributing, removing, or installing asbestos-containing products that were the same or substantially the same as those products previously manufactured, distributed, removed, or installed by the transferor.

51-15-4.

(a) Except as further limited in subsection (b) of this Code section, the cumulative successor asbestos related liabilities of a corporation are limited to the fair market value of the total gross assets of the transferor determined as of the time of the merger or consolidation. The corporation does not have any responsibility for successor asbestos related liabilities in excess of this limitation.

(b) If the transferor had assumed or incurred successor asbestos related liabilities in connection with a prior merger or consolidation with a prior transferor, the fair market value of the total assets of the prior transferor, determined as of the time of the earlier merger or consolidation, shall be substituted for the limitation set forth in subsection (a) of this Code section for the purpose of determining the limitation of liability of a corporation.

51-15-5.

(a) A corporation may establish the fair market value of total gross assets for the purpose of the limitations under Code Section 51-15-4 through any method reasonable under the circumstances, including:

(1) By reference to the going concern value of the assets or to the purchase price attributable to or paid for the assets in an arm's length transaction; or

(2) In the absence of other readily available information from which fair market value can be determined, by reference to the value of the assets recorded on a balance sheet.

(b) Total gross assets include intangible assets.

(c) Total gross assets include the aggregate coverage under any applicable third-party liability insurance that was issued to the transferor whose assets are being valued for purposes of this Code section, which insurance has been collected or is collectable to cover successor asbestos related liabilities except compensation for liabilities arising from workers' exposure to asbestos solely during the course of their employment by the transferor. For purposes of this subsection, a settlement with an insurance company shall fix what amount of coverage was collectable.

51-15-6.

(a) Except as provided in subsections (b), (c), and (d) of this Code section, the fair market value of total gross assets at the time of a merger or consolidation shall increase annually at a rate equal to the sum of:

(1) The prime rate as published by the Board of Governors of the Federal Reserve System, as published in statistical release H.15 or any publication that may supersede it, for each calendar year since the merger or consolidation; and

(2) One percent.

(b) The rate provided in subsection (a) of this Code section shall not be compounded.

(c) The adjustment of fair market value of total gross assets shall continue as provided under subsection (a) of this Code section until the date the adjusted value is first exceeded by the cumulative amounts of successor asbestos related liabilities paid or committed to be paid by or on behalf of the corporation or a predecessor, or by or on behalf of a transferor, after the time of the merger or consolidation for which the fair market value of total gross assets is determined.

(d) No adjustment of the fair market value of total gross assets shall be applied to any liability insurance otherwise included in the definition of total gross assets by subsection (c) of Code Section 51-15-5.

51-15-7.

The courts in this state shall apply, to the fullest extent permissible under the United States Constitution, this state's substantive law, including the limitation under this chapter, to the issue of successor asbestos related liabilities. This chapter shall be construed liberally to accomplish its remedial purposes.

51-15-8.

If any part, portion, section, subsection, paragraph, sentence, clause, phrase, or word of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect the other parts, portions, sections, subsections, paragraphs, sentences, clauses, phrases, or words or applications of this chapter that can be given effect without the invalid part, portion, section, subsection, paragraph, sentence, clause, phrase, or word or application, and to this end the parts, portions, sections, subsections, paragraphs, sentences, clauses, phrases, and words of this chapter are declared severable."

SECTION 3.

In the event any part, portion, section, subsection, paragraph, sentence, clause, phrase, or word of Section 1 of this Act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the validity or applicability of any part, portion, section, subsection, paragraph, sentence, clause, phrase, or word of Section 2 of this Act, which shall remain of full force and effect as if the part, portion, section, subsection, paragraph, sentence, clause, phrase, or word so declared or adjudged invalid or unconstitutional were not originally a part hereof. Likewise, in the event any part, portion, section, subsection, paragraph, sentence, clause, phrase, or word of Section 2 of this Act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the validity or applicability of any part, portion, section, subsection, paragraph,

sentence, clause, phrase, or word of Section 1 of this Act, which shall remain of full force and effect as if the part, portion, section, subsection, paragraph, sentence, clause, phrase, or word so declared or adjudged invalid or unconstitutional were not originally a part hereof. The General Assembly declares that it would have passed the remaining parts of this Act if it had known that any part or parts hereof would be declared or adjudged invalid or unconstitutional.

SECTION 4.

Section 1 of this Act shall become effective on May 1, 2007, and shall apply to certain accrued or future accruing asbestos claims or silica claims in which trial has not commenced as of May 1, 2007, in accordance with its terms. Section 2 of this Act shall become effective on May 1, 2007, and shall apply to asbestos claims that accrued or may accrue on or after that date.

SECTION 5.

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

Approved April 30, 2007.

MOTOR VEHICLES – REAL ID ACT; DELAY IMPLEMENTATION; DRIVER'S LICENSE REQUIREMENTS; NONCITIZENS.

No. 11 (Senate Bill No. 5).

AN ACT

To state findings of the General Assembly regarding the Real ID Act; to amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, so as to permit the Governor of Georgia to delay implementing the requirements of the Real ID Act until the Department of Homeland Security has issued regulations that the Governor finds will adequately protect the interests of the citizens of Georgia; to require the presentation of secure and verifiable documents for purposes of obtaining a driver's license by a noncitizen; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

The General Assembly of Georgia finds that the Real ID Act, H.R. 1268, P.L. 109-13, enacted by Congress in 2005, established standards that state-issued drivers' licenses and identification cards must meet by May 11, 2008, if the licenses or identification cards are to be accepted as valid identification by the federal government. After May 11, 2008, federal agencies are scheduled to accept only drivers' licenses or identification cards that meet Real ID standards. Noncompliant cards will not be accepted for federal purposes such as boarding a domestic flight, opening a bank account, or any other service or activity over which the federal government claims jurisdiction. Each state will also be required to share data from their drivers' licenses or identification cards data base with other states. The exact requirements of the Real ID Act have yet to be defined. The Department of Homeland Security was originally going to promulgate regulations by November, 2005. That date was changed to November, 2006. Currently, regulations are scheduled for January, 2007, but many parties feel this deadline may also pass without the regulations being issued.

Because the Real ID Act was attached to a vital supplemental spending bill for defense and tsunami relief, there was no opportunity for a full examination of the consequences of the proposal. While everyone recognizes the need to make identifying documents as secure as is humanly possible, the one-size-fits-all approach required by the Real ID Act may actually increase the documents' vulnerability to counterfeiting. If criminals are able to invade one state's system, they may have access to all states' systems. On another front, a report from the National Conference of State Legislatures, the National Governors Association, and the American Association of Motor Vehicle Administrators suggests that the new requirements of the Real ID Act will cost states at least $11 billion over the first five years of the program. Despite this massive price tag, there has been no money appropriated to help states meet the law's demands.

The Real ID Act gives the Department of Homeland Security the power to set federal standards and determine whether state drivers' licenses and other identification cards meet these standards. There is no provision in the Real ID Act that requires or even mentions information privacy or data security. The federal and state governments must ensure that the data needed to verify the identity of driver's license applicants is maintained securely and not used for other unrelated purposes. The Department of Homeland Security must include privacy protections for personal driver data as they promulgate regulations spelling out what states need to do to implement the federal law. Success of the Real ID Act depends on the Department of Homeland Security and the states collaborating to find a way of implementing its requirements in a fiscally responsible and risk adjusted manner. Therefore, the Georgia Department of Driver Services is directed to withhold any legislation designed to implement the Real ID Act in Georgia until such time as the Department of Homeland Security has enacted regulations that define the exact type of information that is to be required on a state driver's license. Furthermore, before the Real ID Act is implemented in Georgia, the

Governor of Georgia is entitled to review the regulations promulgated by the Department of Homeland Security and determine if they adequately safeguard and restrict use of the information in order to protect the privacy rights of the citizens of Georgia.

The citizens of Georgia also recognize the importance of ensuring that drivers' licenses are issued only to persons legally present in this state. Therefore, the use of secure and verifiable identification will be required in this state in order to obtain a driver's license. This requirement is in harmony with the intent of the Real ID Act to secure identification processes in this country. The Department of Driver Services is instructed to take the necessary steps to become a participant in the SAVE Program (Systematic Alien Verification for Entitlements). This program, administered by the United States Bureau of Citizenship and Immigration Services, is designed to verify the immigration status of noncitizens.

SECTION 2.

Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, is amended by adding a new Code section to read as follows:

"40-5-4.1.

The Governor of the State of Georgia, or his or her designee, is authorized to delay compliance with certain provisions of the federal Real ID Act, H.R. 1268, P.L. 109-13, enacted by Congress in 2005, until it is expressly guaranteed by the Department of Homeland Security, through adequately defined safeguards, that implementation of the Real ID Act will not compromise the economic privacy or biological sanctity of any citizen or resident of the State of Georgia. This Code section shall not be interpreted as limiting the Governor's discretion or authority to delay compliance with certain provisions of the Real ID Act for any other reason."

SECTION 3.

Said chapter is further amended by adding a new Code section to read as follows:

"40-5-21.2.

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

(1) 'Department' means the Georgia Department of Driver Services.

(2) 'SAVE Program' means the Systematic Alien Verification for Entitlements (SAVE) Program established by the United States Bureau of Citizenship and Immigration Services.

(b) The department shall not issue an identification card, license, permit, or other official document to an applicant who is a noncitizen, until the applicant has been confirmed through the SAVE Program to be lawfully present in the United States.

(c) This Code section shall not apply to instances when a federal law mandates acceptance of a document.

(d) Subsection (b) of this Code section shall become effective upon the department's full implementation of the SAVE Program but not later than January 1, 2008."

SECTION 4.

This Act shall become effective on July 1, 2007.

SECTION 5.

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

Approved May 11, 2007.

HIGHWAYS – ROAD CONSTRUCTION;
UTILITY REMOVAL OR RELOCATION.

No. 12 (Senate Bill No. 19).

AN ACT

To amend Code Section 32-6-170 of the Official Code of Georgia Annotated, relating to the authority of the Department of Transportation to pay costs of removal, relocation, or adjustment of certain utility facilities necessitated by construction of public roads, so as to allow the department to pay or participate in the payment of the costs of the removal, relocation, or adjustment of certain utility facilities of a public utility that is publicly, privately, or cooperatively owned where the cost of removal, relocation, or adjustment is deemed to be in the public interest and the work is to be performed by the department's contractor; to amend Code Section 32-6-171 of the Official Code of Georgia Annotated, relating to the authority of the department to order the removal, relocation, or adjustment of utility facilities occupying any part of the public road system, so as to provide that a utility that fails to remove, relocate, or adjust a facility in a timely manner shall be responsible to the department and its contractors for failure to comply; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 32-6-170 of the Official Code of Georgia Annotated, relating to the authority of the Department of Transportation to pay costs of removal and relocation of certain utility facilities necessitated by construction of public roads, is revised as follows:

"32-6-170.

(a) The department is authorized to pay or participate in the payment of the costs of removing, relocating, or adjusting any of the following facilities or any component part thereof if they are owned by a municipal corporation, county, state agency, or by an

authority created under the laws of Georgia pertaining to public utilities, without regard to whether such facilities were originally installed upon rights of way of the state highway system, a county road system, or a municipal street system, where such removal, relocation, or adjustment is made necessary by the construction or maintenance of any public road by the department: water distribution and sanitary sewer facilities and systems for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, steam, waste, and storm water not connected with highway drainage, including fire and police signals, traffic-control devices, and street lighting systems.

(b) The department is authorized to pay or participate in the payment of the costs of removing, relocating, or making necessary adjustments to any of the following facilities or any component part thereof if they are owned by a public utility that is publicly, privately, or cooperatively owned, without regard to whether such facilities were originally installed upon rights of way of the state highway system, a county road system, or a municipal street system, where the department has made the determination that (i) such payments are in the best interest of the public and necessary in order to expedite the staging of the project; and (ii) the costs of the removal, relocation, or adjustment of such facilities are included as part of the contract between the department and the department's roadway contractor for the project, provided that such removal, relocation, or adjustment is made necessary by the construction or maintenance of a public road by the department: water distribution and sanitary sewer facilities and systems for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, steam, waste, and storm water not connected with highway drainage, including fire and police signals, traffic-control devices, and street lighting systems.

(c) As to municipal corporations, counties, state agencies, authorities controlled by such municipal corporations, counties, or other state agencies, and public utilities that are publicly, privately, or cooperatively owned, the department is authorized to waive provisions in existing permits and agreements in conflict with this article.

(d) The costs of removing, relocating, or adjusting the facilities listed in subsection (a) of this Code section, which costs the department is authorized to pay or participate in by this Code section, shall be limited to the costs of removing, relocating, or adjusting those facilities which are physically in place and in conflict with proposed construction and, where replacement is necessary, to the costs of replacement in kind. That proportion of the costs representing improvement or betterment in a facility shall be excluded from the costs eligible for payment or participation by the department under this Code section, except to the extent that such improvement or betterment is made necessary by the public road construction or maintenance.

(e) All costs incurred by the department under this Code section shall be deemed to be a part of the costs of the project requiring removal, relocation, or adjustment of any of the facilities listed in subsections (a) and (b) of this Code section."

SECTION 2.

Code Section 32-6-171 of the Official Code of Georgia Annotated, relating to the authority of the department to order the removal and relocation of utility facilities occupying any part of the public road system, is revised as follows:

"32-6-171.

(a) Any utility using or occupying any part of a public road which the department has undertaken to improve or intends to improve shall remove, relocate, or make the necessary adjustments to its facility when, in the reasonable opinion of the department, the facility constitutes an obstruction or interference with the use or safe operation of such road by the traveling public or when, in the reasonable opinion of the department, the facility will interfere with such contemplated construction or maintenance.

(b) Whenever the department reasonably determines it necessary to have a utility facility removed, relocated, or adjusted, the department shall give to the utility at least 60 days' written notice directing it to begin the physical removal, or relocation, or adjustment of such utility obstruction or interference. If such notice is part of a highway improvement project, it is normally provided at the date of advertisement or award. However, prior to the notice directing the physical removal, relocation, or adjustment of a utility facility, the utility and the department shall adhere to the department's utility relocation procedures for public road improvements which shall include but not be limited to the following:

(1) The submission by the department to the utility of a letter and set of preliminary plans for the proposed highway improvement project and the utility's submission to the department of written confirmation acknowledging receipt of the plans;

(2) The utility's submission to the department of plans showing existing and proposed locations of facilities within a reasonable time as specified by the department in the letter required under paragraph (1) of this subsection; provided, however, that the time specified by the department shall not be sooner than 30 days and shall not be greater than 120 days. If the utility fails to submit to the department the plans within the allotted 120 days, the department may no longer be required to pay the costs of removal, relocation, or adjustment as prescribed in subsection (b) of Code Section 32-6-170 even if those costs had previously been included in the contract between the department and the department's contractor; instead, such costs shall be borne by the utility; and

(3) The utility's submission shall include with the plans a work plan in a manner and time frame established by the department's written procedures and instructions.

If the utility does not thereafter begin removal, relocation, or adjustment within the time specified in the work plan, the department may give the utility a final notice directing that such removal, relocation, or adjustment shall commence not later than ten days from the receipt of such final notice. If such utility does not, within ten days from receipt of such final notice, begin to remove, relocate, or adjust the facility or, having so begun removal, relocation, or adjustment, thereafter fails to complete the removal, relocation, or adjustment within the time specified in the work plan, the department may exercise its right to obtain injunctive relief as provided in Code Section 32-6-175. If utility removal, relocation, or

adjustment work is found necessary after the letting date of the highway improvement project, the utility shall provide a revised work plan within 30 calendar days after becoming aware of such additional work or upon receipt of the department's written notification advising of such additional work. The utility's revised work plan shall be reviewed by the department to ensure compliance with additional work.

(c) In addition to the foregoing, the owner of the utility may be responsible for and liable to the department or its contractors for documented damages resulting solely from failure on the part of the utility to comply with requirements of the submitted and approved work plan under the control of the utility. If the utility owner fails to provide a work plan or fails to complete the removal, relocation, or adjustment of its facilities in accordance with the work plan approved by the department, then the utility owner may be liable to the contractor for delay costs incurred by the contractor and approved by the department which are caused by or which grow out of the failure of the utility owner to carry out and complete its work in accordance with the approved work plan or in a timely and reasonable manner if a work plan or revised work plan was not submitted. Upon notification in writing by the department or its contractors that the utility is liable for damages or delay costs, the utility company shall have 45 days from receipt of such letter to either pay the amount of the damages or delay costs to the department or its contractors or to request mediation as provided in subsection (d) of this Code section.

(d) The department's utility relocation procedures shall include, in addition to the provisions set forth in subsection (b) of this Code section, provisions for the establishment of mediation boards to hear and decide disputes that may arise between the department and the utility concerning (i) a work plan or revised work plan that has been submitted by the utility but not approved by the department; (ii) a contractor's claim for delay costs or other damages related to the utility's removal, relocation, or adjustment of its facilities; and (iii) any other matter related to the removal, relocation, or adjustment of the utility's facilities pursuant to this Code section. Such procedures shall include but not be limited to the following:

(1) Each mediation board shall consist of one mediator who shall be designated by the department, one mediator who shall be designated by the utility, and an independent mediator who shall be mutually selected by the department's designee and the utility's designee and shall serve as the presiding officer of the mediation board;

(2) The mediators shall hold a hearing with regard to each dispute that is submitted to the mediation board for resolution, shall provide notice of the hearing to each party involved in the dispute, and shall afford each party an opportunity to present evidence at the hearing; provided, however, that unless the parties otherwise agree, the provisions of Code Sections 50-13-13, 50-13-14, and 50-13-15, relating to proceedings in a contested case under the Georgia Administrative Procedure Act, shall not apply to the hearing before the mediation board;

(3) The mediators shall decide each issue presented to the mediation board by a majority vote of the mediators;

(4) The mediators shall issue a final decision in writing with regard to each dispute that is submitted to the mediation board for resolution and shall serve a copy of the final decision on each party involved in the dispute; and

(5) All final decisions of the mediation board shall be subject to de novo review in the Superior Court of Fulton County by way of a petition for judicial review filed by the department or the utility within 30 days after service of the final decision.

(e) The department shall promulgate reasonable regulations governing the mediation board, including the procedural rules governing the mediation of a contested case and the creation of a list of qualified mediators. The department shall consult with the Georgia Utilities Coordinating Council in the development of these regulations, and these regulations shall be adopted by the department on or before January 1, 2008."

SECTION 3.

This Act shall become effective on July 1, 2007.

SECTION 4.

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

Approved May 11, 2007.

CRIMINAL PROCEDURE – PENAL INSTITUTIONS – SENTENCE PROBATION OR SUSPENSION; DETERMINATIONS; LAWFUL PRESENCE OF PRISONERS.

No. 13 (Senate Bill No. 23).

AN ACT

To amend Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to criminal sentencing procedure, so as to provide that in making determinations with respect to probation and suspension of sentences, the court may inquire into and consider the legality of a prisoner's presence in the United States; to amend Article 2 of Chapter 9 of Title 42 of the Official Code of Georgia Annotated, relating to granting of pardons, parole, and other relief in general, so as to provide that the State Board of Pardons and Paroles may inquire into and consider the legality of a prisoner's presence in the United States when making parole decisions; to make a statement of legislative findings and intent with respect to applicability; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to criminal sentencing procedure, is amended by adding a new Code section to read as follows:

"17-10-1.3.

(a) In determining whether to probate all or any part of any sentence of confinement in any felony, misdemeanor, or ordinance violation case, the sentencing court shall be authorized to make inquiry into whether the person to be sentenced is lawfully present in the United States under federal law.

(b) If the court determines that the person to be sentenced is not lawfully present in the United States, the court shall be authorized to make inquiry into whether the person to be sentenced would be legally subject to deportation from the United States while serving a probated sentence.

(c) If the court determines that the person to be sentenced would be legally subject to deportation from the United States while serving a probated sentence, the court may:

(1) Consider the interest of the state in securing certain and complete execution of its judicial sentences in criminal and quasi-criminal cases;

(2) Be authorized to consider the likelihood that deportation may intervene to frustrate that state interest if probation is granted; and

(3) Where appropriate, be authorized to decline to probate a sentence in furtherance of the state interest in certain and complete execution of sentences.

(d) This Code section shall apply with respect to a judicial determination as to whether to suspend all or any part of a sentence of confinement in the same manner as this Code section applies to determinations with respect to probation."

SECTION 2.

Article 2 of Chapter 9 of Title 42 of the Official Code of Georgia Annotated, relating to granting of pardons, parole, and other relief in general, is amended by inserting a new Code Section 42-9-43.1 to read as follows:

"42-9-43.1.

(a) In determining whether to grant parole the board shall be authorized to make inquiry into whether the prisoner is lawfully present in the United States under federal law.

(b) If the board determines that the prisoner is not lawfully present in the United States, the board shall be authorized to make inquiry into whether the prisoner would be legally subject to deportation from the United States while on parole.

(c) If the board determines that the prisoner would be legally subject to deportation from the United States while on parole, the board may:

(1) Consider the interest of the state in securing certain and complete execution of its judicial sentences in criminal cases;

(2) Be authorized to consider the likelihood that deportation may intervene to frustrate that state interest if parole is granted; and

(3) Where appropriate, be authorized to decline to grant parole in furtherance of the state interest in certain and complete execution of sentences."

SECTION 3.

The General Assembly finds that this Act states factors for consideration in discretionary decision-making processes within the criminal justice system. The General Assembly finds that such factors could have been considered prior to or without the enactment of this Act. Accordingly, it is the intention of the General Assembly that this Act may be applied with respect to offenses committed prior to its effective date as well as offenses committed on or after its effective date. However, if there should be a judicial determination that retrospective application is prohibited, it is the intention of the General Assembly that retrospective application should be severable.

SECTION 4.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 5.

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

Approved May 11, 2007.

HEALTH – GEORGIA TRAUMA CARE NETWORK COMMISSION; GEORGIA TRAUMA TRUST FUND.

No. 14 (Senate Bill No. 60).

AN ACT

To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to establish the Georgia Trauma Care Network Commission; to provide for its composition, membership, duties, and responsibilities; to create the Georgia Trauma Trust Fund and provide for its management and use; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding a new Article 5 to Chapter 11 to read as follows:

"ARTICLE 5

31-11-100.

As used in this article, the term:

(1) 'Trauma center' means a facility designated by the Department of Human Resources as a Level I, II, III, or IV trauma center.

(2) 'Trauma patient' means a patient who is on the State Trauma Registry or the National Trauma Registry of the American College of Surgeons.

(3) 'Trauma service codes' means the ICDA-9-CM discharge codes designated as trauma service codes by the American College of Surgeons, Committee on Trauma.

(4) 'Uncompensated' means care provided by a designated trauma center, emergency medical services provider, or physician to a trauma patient as defined by the Georgia Trauma Care Network Commission who:

(A) Has no medical insurance, including federal Medicare Part B coverage;

(B) Is not eligible for medical assistance coverage;

(C) Has no medical coverage for trauma care through workers' compensation, automobile insurance, or any other third party, including any settlement or judgment resulting from such coverage; and

(D) Has not paid for the trauma care provided by the trauma provider after documented attempts by the trauma care services provider to collect payment.

31-11-101.

(a) There is created the Georgia Trauma Care Network Commission which is assigned to the Department of Human Resources for administrative purposes only, as prescribed in Code Section 50-4-3. The commission shall consist of nine members who shall be appointed as provided in this Code section. Five members shall be appointed by the Governor. The Governor shall include among his or her appointees a physician who is actively involved in providing emergency trauma care, a representative of a hospital that is a designated trauma center, and a representative of a state 9-1-1 zone licensed emergency medical services provider. Two members shall be appointed by the Lieutenant Governor. Two members shall be appointed by the Speaker of the House of Representatives. In making the initial appointments, the Governor shall appoint three members for a term of four years and two members for a term of two years, the Lieutenant Governor shall appoint one member for a term of four years and one member for a term of two years, and the Speaker of the House of Representatives shall appoint one member for a term of four years and one member for a term of two years. Thereafter, persons appointed to succeed the

initial members shall serve four-year terms of office. The Governor shall appoint one of the members to serve as the chairperson of the commission.

(b) The commission shall meet upon the call of the chairperson or upon the request of three members. The commission shall organize itself as it deems appropriate and may elect additional officers from among its members.

(c) Any vacancy on the commission shall be filled for the unexpired term by appointment by the original appointing authority.

(d) Members of the commission shall serve without compensation but shall receive the same expense allowance per day as that received by a member of the General Assembly for each day such member of the commission is in attendance at a meeting of such commission, plus either reimbursement for actual transportation costs while traveling by public carrier or the same mileage allowance for use of a personal car in connection with such attendance as members of the General Assembly receive. Such expense and travel allowance shall be paid in lieu of any per diem, allowance, or other remuneration now received by any such member for such attendance.

31-11-102.

The Georgia Trauma Care Network Commission shall have the following duties and responsibilities:

(1) To apply for, receive, and administer state funds appropriated to the commission and federal funds and grants, private grants and donations, and other funds and donations. The commission's annual distributions shall be capped and limited to funds received from the sources specified in this paragraph. The commission shall ensure that its funds are not used as a supplement or secondary payor to any other third-party payor;

(2) For the first two fiscal years in which funds are appropriated to the commission for distribution, to distribute such funds in the following areas with the priority for distribution to be set by majority vote of the commission:

(A) Physician uncompensated trauma care services provided in designated trauma centers;

(B) Emergency medical service uncompensated trauma care services provided to patients transported to designated trauma centers;

(C) Uncompensated trauma care services of designated trauma centers;

(D) Trauma care readiness costs for designated or certified trauma care service providers; and

(E) Trauma care service start-up costs for providers seeking a trauma care designation or certification,

The commission shall adopt a formula that prioritizes the distribution of state appropriated funds that may be implemented during the third state fiscal year in which funds are appropriated to the commission for distribution. Such formula shall be evaluated and modified, if needed, every two years thereafter;

(3) To develop, implement, administer, and maintain a system to compensate designated trauma centers for a portion of their cost of readiness through a semiannual distribution from the Georgia Trauma Trust Fund in a standardized amount determined by the commission. The standardized amounts shall be determined according to designation level and shall be capped at that specific amount. Initially, such standardized amount shall be based upon a three-year average of annual trauma cases, annual amount of uncompensated trauma care services administered, and a three-year annual average cost of readiness. Such criteria may be changed by a majority vote of the commission. Total annual distributions for trauma center and emergency medical service readiness shall be capped at an amount set by the commission. However, the standards developed by the commission for readiness shall include, but are not limited to, the following:

(A) Criteria assuring the trauma fund is a payor of last resort;

(B) Criteria assuring that all other resources must be exhausted before the trauma funds are allocated; and

(C) Criteria assuring that trauma funds must be used to meet a verified need that assists the trauma center to maintain a trauma center designation;

(4) To develop, implement, administer, and maintain a system to provide additional designated trauma center compensation to cover trauma center costs not associated with readiness based upon an application and review based process. These distributions shall be capped and limited to semiannual appropriations received by the commission. Designated trauma centers shall submit an application for trauma funds reimbursement semiannually. The application process developed by the commission for such costs shall include, but is not limited to, the following:

(A) Criteria assuring that the trauma fund is a payor of last resort;

(B) Criteria assuring that trauma funds shall be used for reimbursement for services provided to designated trauma patients;

(C) Criteria assuring that trauma funds shall be used for reimbursement for trauma service codes;

(D) Criteria assuring that trauma funds used for reimbursement for trauma care costs shall be on a fee schedule or grant basis; provided, however, that no reimbursement shall exceed the average rate reimbursed for similar services under the State Health Benefit Plan; and

(E) Criteria that require the trauma center to submit a semiannual report documenting and verifying the use of such funds;

(5) To develop, implement, administer, and maintain a system to compensate physicians who provide uncompensated call and trauma care services. This reimbursement shall be distributed on a semiannual basis and paid on a formula to be set by the commission. The call hours must be documented and verified by the trauma director at the appropriate trauma center in order to receive such funds. The formula developed by the commission for reimbursement shall include, but is not limited to, the following:

(A) Criteria assuring that the trauma fund is a payor of last resort;

(B) Criteria assuring that trauma funds shall be used for reimbursement for services provided to designated trauma patients;

(C) Criteria assuring that trauma funds used for reimbursement for physician costs shall be on a fee schedule or grant basis; provided, however, that no reimbursement shall exceed the average rate reimbursed for similar services under the State Health Benefit Plan; and

(D) Criteria assuring that trauma funds shall be used for reimbursement for trauma service codes;

(6) To reserve and disburse additional moneys to increase the number of participants in the Georgia trauma system. These funds shall be disbursed through an application process to cover partial start-up costs for nondesignated acute care facilities to enter the system as Level II, III, or IV trauma centers. The application process developed by the commission for start-up costs shall include, but is not limited to, the following:

(A) Criteria assuring that the trauma fund is a payor of last resort;

(B) Criteria assuring that all other resources for start-up costs must be exhausted before the trauma funds are allocated;

(C) Criteria assuring that the distribution of trauma funds will result in the applicant's achieving a trauma designation as defined by the commission within the time frame specified on the application;

(D) Criteria assuring and verifying that the Department of Human Resources has determined that there is a need for an additional trauma center with the designation that the applicant is seeking; and

(E) Criteria assuring that no more than 15 percent of the total annual distribution from the trauma fund total shall be distributed for new trauma center development;

(7)(A) To develop, implement, administer, and maintain a system to compensate members of the emergency medical service transportation community for readiness and uncompensated trauma care.

(B) The compensation for the cost of readiness shall be through an application process adopted by the commission. The application process developed by the commission for readiness costs shall include, but is not limited to, the following:

(i) Criteria assuring that the trauma fund is a payor of last resort;

(ii) Criteria assuring that all other resources for readiness costs must be exhausted before the trauma funds are allocated;

(iii) Criteria assuring that the distribution of trauma funds will result in the applicant's achieving certification as defined by the commission within the time frame specified on the application; and

(iv) Criteria assuring and verifying that the Department of Human Resources has determined that there is a need for an additional emergency medical services with the certification that the applicant is seeking.

(C) The commission shall develop a formula for reimbursing emergency medical services uncompensated trauma care services. The formula developed by the commission for reimbursement shall include, but is not limited to, the following:

(i) Criteria assuring that the trauma fund is a payor of last resort;

(ii) Criteria assuring that trauma funds shall be used for reimbursement for services provided to designated trauma patients; and

(iii) Criteria assuring that trauma funds used for reimbursement of emergency medical service costs shall be on a fee schedule or grant basis; provided, however, that no reimbursement shall exceed the average rate reimbursed for similar services under the State Health Benefit Plan;

(8) To appropriate, out of the Georgia Trauma Trust Fund, annual moneys for investment in a system specifically for trauma transportation. The purpose of this system is to provide transport to trauma victims where current options are limited. The commission shall promulgate rules and regulations for such system and shall pursue contracts with existing state transportation structures or create a contractual arrangement with existing transportation organizations. The commission shall also be responsible for creating, maintaining, and overseeing a foundation to raise funds specifically for investment in this system and overall trauma funding;

(9) To act as the accountability mechanism for the entire Georgia trauma system, primarily overseeing the flow of funds from the Georgia Trauma Trust Fund into the system. The State Office of EMS/Trauma shall receive an annual distribution from the commission of not more than 3 percent of the total annual distribution from the fund in the fiscal year. These funds shall be used for the administration of an adequate system for monitoring state-wide trauma care, recruitment of trauma care service providers into the network as needed, and for research as needed to continue to operate and improve the system;

(10) To coordinate its activities with the Department of Human Resources;

(11) To employ and manage staff and consultants in order to fulfill its duties and responsibilities under this article;

(12) To establish, maintain, and administer a trauma center network to coordinate the best use of existing trauma facilities in this state and to direct patients to the best available facility for treatment of traumatic injury;

(13) To coordinate, assist, establish, maintain, and administer programs designed to educate the citizens of this state on trauma prevention;

(14) To coordinate and assist in the collection of data to evaluate the provision of trauma care services in this state;

(15) To study the provision of trauma care services in this state to determine the best practices and methods of providing such services, to determine what changes are needed to improve the provision of trauma care services, and to report any proposed legislative changes to the General Assembly each year; and

(16) To employ an executive director and other staff and to establish duties and responsibilities of such persons.

31-11-103.
There is established the Georgia Trauma Trust Fund. The executive director of the Georgia Trauma Care Network Commission shall serve as the trustee of the Georgia Trauma Trust Fund. The moneys deposited into such fund pursuant to this article may be expended by the executive director with the approval of the Georgia Trauma Care Network Commission for those purposes specified in Code Section 31-11-102."

SECTION 2.

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

Approved May 11, 2007.

DOMESTIC RELATIONS – CHILD-PLACING AGENCY; CRIMINAL HISTORY RECORDS CHECK.

No. 15 (Senate Bill No. 61).

AN ACT

To amend Code Section 19-8-16 of the Official Code of Georgia Annotated, relating to investigation by a child-placing agency or other agent, so as to require a petitioner to submit to a criminal history records check; to provide for such an investigation; to provide for a fee; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 19-8-16 of the Official Code of Georgia Annotated, relating to investigation by a child-placing agency or other agent, is amended by revising subsection (d) as follows:
"(d) The court shall require the petitioner submit to a criminal history records check. The petitioner shall submit his or her fingerprints to the Georgia Crime Information Center with the appropriate fee. The center shall promptly transmit the fingerprints to the Federal Bureau of Investigation for a search of bureau records and shall obtain an appropriate report. The Georgia Crime Information Center shall also promptly conduct a search of its records and any records to which it has access. The center shall notify the court in writing

of the presence or absence of any derogatory finding, including but not limited to any conviction data, regarding the fingerprint records check."

SECTION 2.

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

Approved May 11, 2007.

LAW ENFORCEMENT – GEORGIA CRIME INFORMATION SYSTEM; STATISTICS; CRIMINAL HISTORY RECORDS REQUESTS BY LOCAL GOVERNMENT.

No. 16 (Senate Bill No. 62).

AN ACT

To amend Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia Crime Information Center, so as to revise provisions relating to publication of statistics by the center; to remove a prohibition against certain identifying data in such statistics; to provide certain conditions for requesting criminal history records; to permit counties and municipalities to request a state and national criminal history record check after passing an ordinance authorizing such record checks for certain specified professions or occupations; to provide for related matters; to provide an effective date; to repeal conflicting law; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia Crime Information Center, is amended by revising paragraph (9) of subsection (a) of Code Section 35-3-33, relating to powers and duties of the Georgia Crime Information Center, as follows:

"(9) Periodically publish statistics, no less frequently than annually, that do not identify persons and report such information to the Governor, the General Assembly, state and local criminal justice agencies, and the general public. Such information shall accurately reflect the level and nature of crime in the state and the operations in general of the different types of agencies within the criminal justice system;"

SECTION 2.

Said article is further amended by revising paragraph (1) of subsection (a) of Code Section 35-3-35, relating to disclosure and dissemination of records by the Georgia Crime Information Center to public agencies and political subdivisions and responsibility and liability of the issuing center, as follows:

"(1) Make criminal history records maintained by the center available to public agencies, political subdivisions, authorities, and instrumentalities, including state or federal licensing and regulatory agencies or their designated representatives, under the following conditions:

(A) Public agencies or political subdivisions shall, at the time of the request, provide the fingerprints of the person whose records are requested in such manner prescribed by the center, which may include the electronic imaging of a person's fingerprints, or provide a signed consent of the person whose records are requested on a form prescribed by the center which shall include such person's full name, address, social security number, and date of birth; provided, however, that the provisions of this paragraph shall supersede any other provision relating to the submission of fingerprints to the center;

(B) The center may not provide records of arrests, charges, or sentences for crimes relating to first offenders pursuant to Article 3 of Chapter 8 of Title 42 in cases where offenders have been exonerated and discharged without court adjudications of guilt, except as specifically authorized by Code Section 35-3-34.1 or other law; and

(C) When the identifying information provided is sufficient to identify persons whose records are requested electronically, the center may disseminate electronically criminal history records of in-state felony convictions, pleas, and sentences without:

(i) Fingerprint comparison; or

(ii) Consent of the person whose records are requested;"

SECTION 3.

Said article is further amended by striking "and" at the end of paragraph (1.1) of subsection (a) and adding a new paragraph to subsection (a) of Code Section 35-3-35, relating to the disclosure and dissemination of records to public agencies and political subdivisions, as follows:

"(1.2) Make criminal history records maintained by the center and national criminal history records maintained by the Federal Bureau of Investigation, obtained by the center, available to the governing authority of any county or municipality, for any applicant or licensee in a specified occupation for which such local governing authority has adopted an ordinance or resolution requiring such applicants or licensees in a particular occupation or profession regulated by the governing authority to be fingerprinted as a condition of submitting an application or obtaining or renewing a license. The center shall establish a uniform method of obtaining criminal history records required under this paragraph. Such uniform method shall require the submission to the center of two

complete sets of fingerprints and the records search fee. Upon receipt thereof, the center shall promptly transmit one set of fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall retain the other set and promptly conduct a search of its own records and records to which it has access. After receiving the fingerprints and fee, the center shall notify the requesting local government authority in writing of any derogatory finding, including, but not limited to, any criminal record data regarding the fingerprint records check or if there is no such finding. Nothing in this paragraph shall prevent the local governing authority from obtaining national criminal history records directly from the Federal Bureau of Investigation, if an ordinance or resolution requiring the fingerprints of an applicant or licensee of a particular occupation or profession regulated by the local governing authority has been adopted by such governing authority of the county or municipality; and"

SECTION 4.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 5.

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

Approved May 11, 2007.

HIGHWAYS – DEPARTMENT OF TRANSPORTATION;
"RV FRIENDLY" MARKERS.

No. 17 (Senate Bill No. 87).

AN ACT

To amend Part 2 of Article 3 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to the state highway system, so as to direct the Department of Transportation to seek approval from the Federal Highway Administration to incorporate the use of "RV friendly" markers on specific service signs for business establishments that cater to the needs of persons driving recreational vehicles; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 2 of Article 3 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to the state highway system, is amended by adding a new Code section as follows:

"32-6-87.1.

(a) Subject to the prior approval of the Federal Highway Administration, the department is directed to incorporate the use of 'RV friendly' markers on specific service signs for business establishments that cater to the needs of persons driving recreational vehicles. A business establishment that qualifies for participation in the specific service sign program and that also qualifies as 'RV friendly' may request that an 'RV friendly' marker be displayed immediately adjacent to such establishment's business logo sign on the appropriate background sign panel. For purposes of this Code section, the 'RV friendly' marker to be displayed shall be such marker as may be approved by the Federal Highway Administration in the Manual on Uniform Traffic Control Devices.

(b) In accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedures Act,' and subject to the approval of the Federal Highway Administration, the department shall promulgate such rules and regulations as are necessary to implement the provisions of this Code section, including the promulgation of rules and regulations setting forth the minimum requirements that business establishments must meet in order to qualify as 'RV friendly.' Such requirements shall include, but shall not be limited to, the availability at each qualifying business establishment of parking spaces, entrances and exits in sufficient number and of sufficient size and dimensions to easily accommodate recreational vehicles, and the presence of appropriate overhang clearances at all facilities, if applicable.

(c) For the purposes of assisting the Federal Highway Administration in considering the approval of an 'RV friendly' marker for incorporation into the Manual on Uniform Traffic Control Devices, the department is directed to submit a request to the Federal Highway Administration for permission to experiment with the use of an 'RV friendly' marker on specific service signs in accordance with this Code section."

SECTION 2.

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

Approved May 11, 2007.

OFFICIAL CODE OF GEORGIA ANNOTATED –
CODE REVISION; CORRECTIONS.

No. 18 (Senate Bill No. 103).

AN ACT

To amend the Official Code of Georgia Annotated, so as to correct typographical, stylistic, capitalization, punctuation, and other errors and omissions in the Official Code of Georgia Annotated and in Acts of the General Assembly amending the Official Code of Georgia Annotated; to reenact the statutory portion of the Official Code of Georgia Annotated, as amended; to provide for necessary or appropriate revisions and modernizations of matters contained in the Official Code of Georgia Annotated; to repeal portions of the Code and Acts related thereto which have become obsolete; to delete portions of the Code and Acts related thereto which have been superseded by subsequent state laws; to provide for and to correct citations in the Official Code of Georgia Annotated and other codes and laws of the state; to rearrange, renumber, and redesignate provisions of the Official Code of Georgia Annotated; to provide for other matters relating to the Official Code of Georgia Annotated; to provide effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 1 of the Official Code of Georgia Annotated, relating to general provisions, is amended in:

(1) Code Section 1-4-15.1, relating to the designation of "Ronald Reagan Day", by replacing the single quotation marks at the beginning and end of "peace through strength" with double quotation marks in paragraph (6) of subsection (a).

SECTION 2.

Reserved.

SECTION 3.

Reserved.

SECTION 4.

Reserved.

SECTION 5.

Reserved.

SECTION 6.

Reserved.

SECTION 7.

Reserved.

SECTION 8.

Reserved.

SECTION 9.

Title 9 of the Official Code of Georgia Annotated, relating to civil practice, is amended in:
(1) Code Section 9-7-3, relating to the appointment of an auditor in matters of account on application and notice and on the court's own motion, by replacing "the superior, state or city courts" with "the superior, state, or city courts".
(2) Code Section 9-10-2, relating to civil practice and actions against the state void absent notice or waiver, by striking "or" at the end of paragraph (1).

SECTION 10.

Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is amended in:
(1) Code Section 10-14-3, relating to definitions in regard to cemetery and funeral services, by replacing "polypropolene," with "polypropylene," in paragraph (27).

SECTION 11.

Reserved.

SECTION 12.

Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural resources, is amended in:
(1) Code Section 12-8-33.1, relating to improper disposal of computer equipment, the creation of the Computer Equipment Disposal and Recycling Council, compensation, and powers and duties, by repealing said obsolete Code section in its entirety.

SECTION 13.

Reserved.

SECTION 14.

Reserved.

SECTION 15.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended in:

(1) Code Section 15-6-3, relating to the terms of court for the superior courts for each of the judicial circuits, by replacing the period with a semicolon at the end of subparagraph (E) and by replacing "Provided, however, if" with "provided, however, that if" at the beginning of the undesignated text at the end of paragraph (1) and by replacing the period with a semicolon at the end of subparagraph (F) and by replacing "Provided, however, if" with "provided, however, that if" at the beginning of the undesignated text at the end of paragraph (41).

(2) Code Section 15-11-149, relating to the court's disposition of a mentally ill or mentally retarded child, by replacing "provided by Article 1." with "provided by Article 1 of this chapter." at the end of subsection (d).

(3) Code Section 15-11-206, relating to the emancipation of minors, petition to rescind an emancipation order, service upon parents or guardians, requirements for rescission, retention by court of rescission, effect on other parties, and appeals, by replacing "agrees" with "agree" in paragraph (2) of subsection (c).

(4) Code Section 15-12-1, relating to exemptions from jury duty, by replacing "this paragraph and paragraph (4)." with "this paragraph and paragraph (4) of this subsection." in paragraph (3) of subsection (a).

(5) Code Section 15-19-57, relating to the regulation of the practice of law and the investigation of unauthorized practice of law, by striking and reserving paragraph (2).

(6) Code Section 15-19-58, relating to the regulation of the practice of law and injunctive relief, venue, procedure, and other remedies, by striking and reserving paragraph (2) of subsection (a).

(7) Code Section 15-21-2, relating to payment into county treasury of fines and forfeitures, by replacing "the Department's motorcycle enforcement program." with "the department's motorcycle enforcement program." in paragraph (2) of subsection (a).

(8) Code Section 15-21-173, relating to the Georgia Driver's Education Commission members and terms, appointment, vacancies, chairperson and other officers, and employees, by replacing "driver's education" with "driver's education" in subsection (a).

SECTION 15A.

Section 3 of an Act amending Code Sections 15-21-2 and 40-13-26, approved April 18, 2006 (Ga. L. 2006, p. 159), not codified by the General Assembly, is amended by replacing "shall expire June 30, 2011," with "shall stand repealed June 30, 2011,".

SECTION 16.

Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is amended in:

(1) Code Section 16-5-110, relating to notice of conviction and release from confinement of sex offenders and publication of notice, information required, assessment for cost, and

immunity, by replacing "the date, time, place of arrest;" with "the date, time, and place of arrest;" in subsection (a).

(2) Code Section 16-6-25, relating to harboring, concealing, or withholding information concerning a sexual offender and penalties, by replacing "attempting harbor such sexual offender;" with "attempting to harbor such sexual offender;" in paragraph (1) of subsection (b).

(3) Code Section 16-9-152, relating to computer security and spyware, browsers, hijacks, and other software prohibited, by replacing "division (i) or (ii) of subparagraph (E) of paragraph (12) of Code Section 16-9-151" with "division (12)(E)(i) or (12)(E)(ii) of Code Section 16-9-151" in subparagraph (a)(2)(C).

(4) Code Section 16-11-64.1, relating to wiretapping, eavesdropping, surveillance, and related offenses and the application and issuance of an order authorizing the installation and use of a pen register or a trap and trace device, by replacing "District Attorney," with "district attorney,".

(5) Code Section 16-11-126, relating to carrying a concealed weapon, by replacing "licenseholder" with "license holder" in subsection (e).

(6) Code Section 16-11-127.2, relating to a firearm or weapon on the premises of a nuclear power facility, by replacing "a fine of not more than $10,000," with "a fine of not more than $10,000.00," in subsection (b).

(7) Code Section 16-11-128, relating to carrying a pistol without a license, by replacing "licenseholder" with "license holder".

(8) Code Section 16-12-22.1, relating to raffles operated by nonprofit, tax-exempt organizations, by replacing "subparagraphs (A) and (B) of paragraph (1) of this subsection" with "subparagraphs (A) and (B) of paragraph (2) of this subsection" in paragraph (4) of subsection (d).

(9) Code Section 16-12-35, relating to gambling and certain applicability, by redesignating subsection (a) as new subsection (j), by redesignating subsection (a.1) as new subsection (a), and by replacing the single quotation marks at the beginning and end of "some skill" with double quotation marks in the last sentence of the undesignated text at the end of new subsection (a).

(10) Code Section 16-12-100.2, relating to computer pornography and child exploitation prevention, by replacing "on-line messaging service" with "on-line messaging service," in paragraph (1) of subsection (d).

(11) Code Section 16-12-109,which is a reserved designation, by repealing said designation.

(12) Code Section 16-13-28, relating to the regulation of controlled substances in Schedule IV, by striking "Zopiclone, and all salts, isomers, and salts of isomers thereof." and inserting in its place "Zopiclone." in paragraph (34) of subsection (a).

(13) Code Section 16-13-30.3, relating to regulation of controlled substances and the possession of substances containing ephedrine, pseudoephedrine, and phenylpropanolamine and restrictions on sales of products containing pseudoephedrine, by replacing "the State

Board of Pharmacy," with "the Georgia State Board of Pharmacy," in paragraph (3) of subsection (c) and by replacing "or more than ten" with "nor more than ten" in subsection (d).
(14) Code Section 16-13-30.4, relating to the regulation of controlled substances and licenses for sale, transfer, or purchase for resale of products containing pseudoephedrine, reporting and record-keeping requirements, grounds for denial, suspension, or revocation of licenses, rules and regulations, exceptions, forfeiture, and violations, by replacing "Board of Pharmacy" with "board of pharmacy" in subsection (a), paragraph (1) of subsection (b), the introductory language of subsection (c), and subsection (d).
(15) Code Section 16-13-31.1, relating to the penalty for selling, possessing, distributing or other offenses associated with ecstasy, by replacing "10 years" with "ten years" in paragraph (3).
(16) Code Section 16-13-41, relating to prescriptions, by replacing "prescriptions" with "prescription" and by replacing "signatures" with "signature" in subsection (b) and by replacing "Such prescriptions shall be signed and dated or may be issued orally by the practitioner on the date when issued," with "Such prescription shall be signed and dated by the practitioner on the date when issued or may be issued orally," in paragraph (2) of subsection (d).
(17) Code Section 16-13-71, relating to the definition of a dangerous drug, by replacing "Iothalalmate;" with "Iothalamate;" in paragraph (489.2) and by replacing "Tiotropium" with "Tiotropium;" in paragraph (967.55) of subsection (b).

SECTION 17.

Reserved.

SECTION 18.

Reserved.

SECTION 19.

Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is amended in Code Section 19-6-15, relating to child support in final verdict or decree, guidelines for determining the amount of the award, continuation of duty to provide support and duration of the support,
(1) By replacing the term:
(A) "Adjusted Child Support Obligation" with "adjusted child support obligation" wherever the former term appears;
(B) "Adjusted Income" with "adjusted income" wherever the former term appears;
(C) "Basic Child Support Obligation" with "basic child support obligation" wherever the former term appears;
(D) "Child" with "child" wherever the former term appears;
(E) "Child Support" with "child support" wherever the former term appears;

(F) "Child Support Obligation Table" with "child support obligation table" wherever the former term appears;
(G) "Child Support Worksheet" with "child support worksheet" wherever the former term appears;
(H) "Combined Adjusted Income" with "combined adjusted income" wherever the former term appears;
(I) "Court" or "Court's" with "court" or "court's", respectively, wherever the former terms appear;
(J) "Custodial" with "custodial" wherever the former term appears;
(K) "Deviation" or "Deviations" with "deviation" or "deviations", respectively, wherever the former terms appear;
(L) "Final Child Support Order" with "final child support order" wherever the former term appears;
(M) "Gross Income" with "gross income" wherever the former term appears;
(N) "Health Insurance" with "health insurance" wherever the former term appears;
(O) "Noncustodial" with "noncustodial" wherever the former term appears;
(P) "Nonparent Custodian" or "Nonparent Custodian's" with "nonparent custodian" or "nonparent custodian's", respectively, wherever the former terms appear;
(Q) "Parent", "Parents", or "Parent's" with "parent", "parents", or "parent's", respectively, wherever the former terms appear;
(R) "Parenting Time Adjustment" with "parenting time adjustment" wherever the former term appears;
(S) "Preexisting Order" or "Preexisting Orders" with "preexisting order" or "preexisting order", respectively, wherever the former terms appear;
(T) "Presumptive Amount of Child Support" with "presumptive amount of child support" wherever the former term appears;
(U) "Qualified Child" with "qualified child" wherever the former term appears;
(V) "Qualified Children" with "qualified children" wherever the former term appears;
(W) "Split Parenting" with "split parenting" wherever the former term appears;
(X) "Theoretical Child Support Order" or "Theoretical Child Support Orders" with "theoretical child support order" or "theoretical child support orders", respectively, wherever the former terms appear;
(Y) "Uninsured Health Care Expenses" with "uninsured health care expenses" wherever the former term appears;
(Z) "Work Related Child Care Costs" with "work related child care costs" wherever the former term appears; and
(AA) "Worksheet" with "worksheet" wherever the former term appears,

except within the title of an Act; and except, further, that the first word of any sentence, paragraph, subparagraph, or division shall remain capitalized.

(2) Revising paragraph (5) of subsection (a) as follows:

"(5) Reserved.

(6.1) 'Child support services' means the Office of Child Support Services within the Department of Human Resources."

(3) Replacing "A 'Qualified Child'" with "'Qualified child'" in paragraph (20) of subsection (a).

(4) Replacing "Child Support Enforcement Agency" with "child support services" in paragraph (25) of subsection (a), and divisions (h)(3)(B)(ii) and (i)(2)(K)(iii) and by replacing "Child Support Enforcement Agency's" with "child support services'" in division (f)(5)(B)(iii).

(5) Replacing "Veterans' Administration" with "United States Department of Veterans Affairs" in division (f)(1)(A)(vii).

(6) Replacing "temporary assistance for needy families," with "Temporary Assistance for Needy Families Program," in division (f)(2)(B)(i).

(7) Replacing "Low income" with "Low-income" in division (f)(2)(B)(v).

(8) Replacing "the amount of current child support may remain the same" with "leave unchanged the amount of current child support" in subparagraph (f)(4)(C).

(9) Replacing "workforce" with "work force" in subdivision (f)(4)(D)(vi)(II).

(10) Replacing "pursuant to this paragraph" with "pursuant to this subparagraph" in subparagraph (f)(5)(C).

(11) Replacing "Child's Health Insurance premium" with "child's health insurance premiums" in the undesignated introductory paragraph of subsection (h).

(12) Replacing "Uninsured Heath Care Expenses;" with "uninsured health care expenses;" in subparagraph (h)(3)(A).

(13) Replacing "low income" with "low-income" in subparagraph (i)(2)(B).

(14) Replacing "health-related" with "health related" in the catchline of subparagraph (i)(27)(C).

SECTION 20.

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in:

(1) Code Section 20-3-519.3, relating to HOPE scholarships and grants, eligibility requirements for a HOPE scholarship at a private postsecondary institution, and the scholarship amount, by replacing "at least 3.0 at end of" with "at least 3.0 at the end of" in subparagraph (e)(1)(A) and by replacing "as provided for in paragraph (2)," with "as provided for in paragraph (2) of this subsection," in paragraph (1) of subsection (g).

(2) Code Section 20-14-90, relating to the creation of the Agricultural Education Advisory Commission, membership, powers and duties, and repeal of provisions, by replacing "two year terms" with "two-year terms" in subparagraph (b)(3)(B) and by replacing "report annually to commission" with "report annually to the commission" in paragraph (1) of subsection (d).

(3) Code Section 20-14-91, relating to the creation of the Career and Technical Education Advisory Commission, membership, reporting and review requirements, meetings, reimbursement of members, and repeal of provisions, by replacing "two year terms" with

"two-year terms" in subparagraph (b)(3)(B) and by replacing "report annually to commission" with "report annually to the commission" in paragraph (1) of subsection (d).
(4) Code Section 20-15-4, relating to the corporate purpose and the general nature of the business of the Georgia Medical Center Authority, by replacing "manufacturing facilities, and programs" with "manufacturing facilities and programs" in paragraph (1).
(5) Code Section 20-15-5.3, relating to the Georgia Medical Center Authority and provisions of bond agreements or instruments, use of proceeds, issuance of subsequent bonds, and renewal of validated bonds, by replacing "bonds of the authority shall have validated" with "bonds of the authority shall have been validated" in subsection (d).
(6) Code Section 20-16-3, relating to the creation of the Georgia Higher Education Facilities Authority, appointment of members, terms of office, and officers, by replacing "the Speaker of the House of Representative's appointee" with "the Speaker of the House of Representatives' appointee" in subsection (a).
(7) Code Section 20-16-4, relating to the powers of the Georgia Higher Education Facilities Authority, by replacing the period with a semicolon at the end of paragraph (13).

SECTION 21.

Reserved.

SECTION 22.

Reserved.

SECTION 23.

Reserved.

SECTION 24.

Reserved.

SECTION 25.

Title 25 of the Official Code of Georgia Annotated, relating to fire protection and safety, is amended in:
(1) Code Section 25-10-1, relating to definitions regarding the regulation of fireworks, by replacing "model rocket engines, designed, sold, and used" with "model rocket engines designed, sold, and used" in paragraph (1) of subsection (b).

SECTION 26.

Title 26 of the Official Code of Georgia Annotated, relating to food, drugs, and cosmetics, is amended in:
(1) Code Section 26-4-5, relating to definitions in regard to pharmacists and pharmacies, by adding a comma after "chapter" in the introductory language.

SECTION 27.

Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended in:
(1) Code Section 27-2-3, relating to effective periods of hunting, fishing, and trapping licenses generally, by replacing "combination licenses pursuant to" with "combination licenses issued pursuant to".
(2) Code Section 27-3-9, relating to hunting and the unlawful enticement of game, by replacing "that is shall be lawful" with "that it shall be lawful" in subsection (a).
(3) Code Section 27-3-110, relating to shooting preserve license required, effective dates, contents of application, and conditions for issuance, by replacing "trespassing;" with "trespassing; and" at the end of paragraph (2) of subsection (c).
(4) Code Section 27-4-130.1, relating to open seasons, creel and possession limits, and minimum size limits for certain finfish species, by replacing "Maximum Daily Creel And Possession Limit" with "Maximum Daily Creel and Possession Limit" in the form headings of subsections (b) and (c).

SECTION 28.

Reserved.

SECTION 29.

Reserved.

SECTION 30.

Reserved.

SECTION 31.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in:
(1) Code Section 31-7-75.3, relating to home health agency services operated by hospitals, by repealing said obsolete Code section in its entirety.

SECTION 32.

Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries, is amended in:
(1) Code Section 32-2-60, relating to the authority of the Department of Transportation to contract, form and content of construction contracts, federal-aid highway contracts, and bonds, by designating the introductory language as paragraph (1); by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E); and by designating the last undesignated paragraph as paragraph (2) in subsection (e).
(2) Code Section 32-6-30, relating to stopping vehicles for purposes of weighing, measuring, or inspecting, reports of violations, and refusal to stop, by replacing "in violation of Code Sections 48-9-39 and 48-11-14" with "in violation of Code Section 48-9-39" in subsection (a).

SECTION 33.

Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in:
(1) Code Section 33-59A-2, relating to membership on the Interstate Insurance Product Regulation Commission and the Commissioner of Insurance being the state's representative, by replacing "States" with "states" and by replacing "to the Commission" with "to the commission".

SECTION 34.

Reserved.

SECTION 35.

Reserved.

SECTION 36.

Reserved.

SECTION 37.

Reserved.

SECTION 38.

Title 38 of the Official Code of Georgia Annotated, relating to military, emergency management, and veterans affairs, is amended in:
(1) Code Section 38-3-112, relating to emergency management and the development and implementation of a state-wide alert system for disabled adults, by replacing "department" with "Georgia Emergency Management Agency".
(2) Code Section 38-3-113, relating to state-wide alert systems and the director of emergency management to be the state-wide coordinator for the alert system, by replacing "director" with "director of emergency management" in subsections (a) through (c).
(3) Code Section 38-3-115, relating to the criteria for activating the state-wide alert system for missing disabled adults, by replacing "the director" with "the director of emergency management" in the introductory language of subsection (a) and in subsection (b).
(4) Code Section 38-3-116, relating to the verification that criteria have been met for the activation of the state-wide alert system for missing disabled adults, by replacing "the director." with "the director of emergency management.".
(5) Code Section 38-3-117, relating to the state-wide alert system for missing disabled adults and the obligations of agencies participating in the alert system and the participation of the Georgia Lottery Corporation in disseminating alert information through retail establishments, by replacing "the department" with "the Georgia Emergency Management Agency" in paragraph (1) of subsection (a).
(6) Code Section 38-3-118, relating to the state-wide alert system for missing disabled adults and the termination of the alert system with respect to a particular disabled adult, by

replacing "The director" with "The director of emergency management" in the introductory language and in paragraph (2).
(7) Code Section 38-3-120, relating to the state-wide alert system for unapprehended murder or rape suspects determined to be serious public threats, by replacing "director" with "director of emergency management" in subsections (b), (d), (e), and (g) and by redesignating said Code section as a new Code Section 38-3-130 under a new Article 8 designation.

SECTION 39.

Reserved.

SECTION 40.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended in:
(1) Code Section 40-1-7, relating to the blue light required for officers enforcing traffic and exception, by replacing "and, provided, further that" with "and provided, further, that".
(2) Code Section 40-2-86.21, relating to special license plates promoting certain beneficial projects and supporting certain worthy agencies, funds, or nonprofit corporations, by replacing "Ga. L. 1993, p. 1952." with "Article 5 of Chapter 7 of Title 50." in paragraph (4) of subsection (m).
(3) Code Section 40-5-23, relating to classes of drivers' licenses, by replacing "Instructional permit" with "Instruction permit" in subsection (c).
(4) Code Section 40-5-63, relating to periods of suspension and conditions to return of a driver's license, by replacing "restoration fee of $210 or $200" with "restoration fee of $210.00 or $200.00" in paragraphs (1) and (2) of subsection (a).
(5) Code Section 40-5-67.1, relating to chemical tests, implied consent notices, rights of motorists, test results, refusal to submit, suspension or denial of license, hearing and review, compensation of officers, and inspection and certification of breath-testing instruments, by redesignating subparagraphs (g)(2)(A) and (g)(2)(B) as divisions (i) and (ii) of subparagraph (g)(2)(A); by redesignating subparagraph (g)(2)(C) as subparagraph (g)(2)(B); by redesignating subparagraphs (g)(2)(D) and (g)(2)(E) as divisions (i) and (ii) of subparagraph (g)(2)(C); and by redesignating subparagraph (g)(2)(F) as subparagraph (g)(2)(D).
(6) Code Section 40-5-67.2, relating to terms and conditions for suspension of a driver's license under subsection (c) of Code Section 40-5-67.1, by replacing "restoration fee of $210 or $200" with "restoration fee of $210.00 or $200.00" in paragraphs (1) and (2) of subsection (a).
(7) Code Section 40-5-75, relating to the suspension of a driver's license by operation of law for certain drug offenses, by replacing "restoration fee of $210 or $200" with "restoration fee of $210.00 or $200.00" in paragraphs (1) and (2) of subsection (a).
(8) Code Section 40-5-151, relating to commercial drivers' licenses and disqualification from driving and action required after suspending, revoking, or canceling a license or

nonresident privileges, by replacing "Hazardous Material Transportation Act" with "Hazardous Materials Transportation Act, 49 U.S.C. app. 1804" in subsection (b).
(9) Code Section 40-6-225, relating to parking places for persons with disabilities for the nonambulatory, by replacing the hyphen with an em dash between "Disabilities" and "nonambulatory", by replacing "only be utilized for" with "be utilized only for", and by replacing "enter or get out of a vehicle" with "enter or exit a vehicle".
(10) Code Section 40-6-351, relating to driver's license or permit required for certain operators, by replacing "instructional permit," with "instruction permit," and by replacing "instructional permits," with "instruction permits,".
(11) Code Section 40-6-391, relating to driving under the influence of alcohol, drugs, or other intoxicating substances, penalties, publication of notice of conviction for persons convicted for second time, and endangering a child, by striking "and" at the end of subparagraphs (c)(2)(D) and (c)(3)(D).

SECTION 41.

Reserved.

SECTION 42.

Reserved.

SECTION 43.

Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended in:
(1) Code Section 43-34-26.3, relating to the delegation of certain medical acts to an advanced practice registered nurse, construction and limitations of such delegation, definitions, conditions of nurse protocol, and issuance of prescription drug orders, by replacing the period with a semicolon at the end of paragraph (3) of subsection (c).
(2) Code Section 43-34-64, relating to acupuncture licensure requirements, by replacing "Except as otherwise provided in subsection (b) of this Code section, each" with "Each" at the beginning of the introductory language of subsection (a).

SECTION 44.

Title 44 of the Official Code of Georgia Annotated, relating to property, is amended in:
(1) Code Section 44-2-30, relating to property and the filing and recording of a notice of settlement, by replacing "hearby" with "hereby" in the form in subsection (d).

SECTION 45.

Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees, is amended in:

(1) Code Section 45-7-21, relating to the expense allowance and travel cost reimbursement for members of certain boards and commissions, by revising paragraphs (16.1) and (17) of subsection (a) as follows:

"(17) State Board of Technical and Adult Education;

(18) Civil War Commission; and

(19) The delegation from the State of Georgia to the Southern Dairy Compact Commission."

SECTION 46.

Reserved.

SECTION 47.

Reserved.

SECTION 48.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended in:

(1) Code Section 48-5-40, relating to tax exemptions definitions, by replacing "occupied by himself" with "occupied by himself or herself" in division (1)(A)(iii) and by replacing "Who is a resident" with "A resident" in subsection (B) of paragraph (1).

(2) Code Section 48-5-126.1, relating to training classes for county tax collectors and tax commissioners, by reenacting subsection (h) as it existed immediately prior to July 1, 2005, which subsection the publisher thereafter inadvertently omitted from supplements to Volume 36 of the Official Code of Georgia Annotated, to read as follows:

"(h) Any county tax collector or tax commissioner who, without good cause such as sickness or other emergency, fails to comply with the training requirements of this Code section may be subject to removal from office by the Governor.".

(3) Code Section 48-7-29.11, relating to income tax credits for teleworking, definitions, and powers and duties, by replacing "$2,000,000.00" with "Two million dollars" at the beginning of subparagraphs (e)(2)(A) and (e)(2)(B) and by replacing "Department" with "department", by replacing "the employer (applicant)" with "the employer", by replacing "their tax liability" with "its tax liability", and by replacing "expenses are incurred." with "expenses were incurred." in paragraph (3) of subsection (e).

(4) Code Section 48-8-3, relating to state sales and use tax and exemptions, by replacing "fund-raising" with "fundraising" in divisions (15)(B)(i) and (ii) and (41)(B)(i) and (ii) and subparagraphs (B) and (C) of paragraph (59) and by replacing the period with a semicolon at the end of subparagraph (C) of paragraph (58).

(5) Code Section 48-13-51, relating the excise tax on rooms, lodgings, and accommodations and county and municipal levies on public accommodations charges for promotion of tourism, conventions, and trade shows, by replacing "under paragraphs (2.1), (3), (2.2),

(3.1)," with "under paragraphs (2.1), (2.2), (3), (3.1)," in the last sentence of paragraph (2) of subsection (a).

SECTION 49.

Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended in:

(1) Code Section 49-4-142.1, relating to legislative notification of request for waiver regarding medicare and Medicaid services, by replacing "On and after May 5, 2006," with "On and after May 3, 2006," in the first sentence.

(2) Code Section 49-4-146.1, relating to medical assistance and unlawful acts, violations and penalties, recovery of excess amounts, termination and reinstatement of providers, and the duty of the Department of Community Health to identify and investigate violations and to notify proper authorities, by replacing "he or she is entitled, or knowingly and willfully" with "he or she is entitled or knowingly and willfully" in paragraph (2) of subsection (b).

SECTION 50.

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended in:

(1) Code Section 50-3-12, relating to state flags to honor the service of deceased qualifying elected state officials, by replacing "purposes set forth in the Code section." with "purposes set forth in this Code section." in subsection (c).

(2) Code Section 50-3-13, relating to state flags to honor the service of deceased qualifying public safety officers, by replacing "purposes set forth in the Code section." with "purposes set forth in this Code section." in subsection (d).

(3) Code Section 50-5-141, relating to the authorization and duty of the Department of Administrative Services to dispose of surplus property and the authorization for transfer, sale, trade, or destruction and prohibition of certain employee purchases, by replacing "proceeds from the sell of the surplus property," with "proceeds from the sale of the surplus property," in paragraph (5) of subsection (a).

(4) Code Section 50-12-131, relating to the Georgia Commission on the Holocaust and membership, terms, qualifications, officers, quorum, and powers and duties, by replacing "ex-officio" with "ex officio" in subsection (f).

SECTION 51.

Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended in:

(1) Code Section 51-1-29.1, relating to torts and liability of voluntary health care providers, by revising said Code section as follows:

"51-1-29.1.

(a) Without waiving or affecting and cumulative of any existing immunity from any source, unless it is established that injuries or death were caused by gross negligence or willful or wanton misconduct:

(1) No health care provider licensed under Chapter 9, 11, 26, 30, 33, or 34 of Title 43 who voluntarily and without the expectation or receipt of compensation provides professional services, within the scope of such health care provider's licensure, for and at the request of a hospital, public school, nonprofit organization, or an agency of the state or one of its political subdivisions or provides such professional services to a person at the request of such an organization, which organization does not expect or receive compensation with respect to such services from the recipient of such services; or

(2) No licensed hospital, public school, or nonprofit organization which requests, sponsors, or participates in the providing of the services under the circumstances provided in paragraph (1) of this subsection

shall be liable for damages or injuries alleged to have been sustained by the person nor for damages for the injury or death of the person when the injuries or death are alleged to have occurred by reason of an act or omission in the rendering of such services.

(b) Nothing in this Code section shall be construed to change the scope of practice of any health care provider granted immunity in this Code section.

(c) This Code section shall apply only to causes of action arising on or after July 1, 1987."

SECTION 52.

Reserved.

SECTION 53.

Reserved.

SECTION 54.

Except for Title 47, the text of Code sections and title, chapter, article, part, subpart, Code section, subsection, paragraph, subparagraph, division, and subdivision numbers and designations as contained in the Official Code of Georgia Annotated published under authority of the state by The Michie Company in 1982 and contained in Volumes 3 through 40 of such publication or replacement volumes thereto, as amended by the text and numbering of Code sections as contained in the 2006 supplements to the Official Code of Georgia Annotated published under authority of the state in 2006 by LEXIS Publishing, are reenacted and shall have the effect of statutes enacted by the General Assembly of Georgia. Annotations; editorial notes; Code Revision Commission notes; research references; notes on law review articles; opinions of the Attorney General of Georgia; indexes; analyses; title, chapter, article, part, and subpart captions or headings, except as otherwise provided in the Code; catchlines of Code sections or portions thereof, except as otherwise provided in the Code; and rules and regulations of state agencies, departments, boards, commissions, or other entities which are contained in the Official Code of Georgia Annotated are not enacted as statutes by the provisions of this Act. Material which has been added in brackets or parentheses and editorial, delayed effective date, effect of amendment, or other similar notes within the text of a Code section by the editorial staff of the publisher in order to explain or

to prevent a misapprehension concerning the contents of the Code section and which is explained in an editorial note is not enacted by the provisions of this section and shall not be considered a part of the Official Code of Georgia Annotated. The reenactment of the statutory portion of the Official Code of Georgia Annotated by this Act shall not affect, supersede, or repeal any Act of the General Assembly, or portion thereof, which is not contained in the Official Code of Georgia Annotated and which was not repealed by Code Section 1-1-10, specifically including those Acts which have not yet been included in the text of the Official Code of Georgia Annotated because of effective dates which extend beyond the effective date of the Code or the publication date of the Code or its supplements. The provisions contained in other sections of this Act and in the other Acts enacted at the 2007 regular session of the General Assembly of Georgia shall supersede the provisions of the Official Code of Georgia Annotated reenacted by this section.

SECTION 55.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval; except that the amendment to Code Section 48-7-29.11 made by paragraph (3) of Section 48 of this Act shall become effective on July 1, 2007.

SECTION 56.

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

Approved May 11, 2007.

RETIREMENT – CODE REVISION; CORRECTIONS.

No. 19 (Senate Bill No. 104).

AN ACT

To amend Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, so as to correct typographical, stylistic, and other errors and omissions in Title 47 of the Official Code of Georgia Annotated and in Acts of the General Assembly amending Title 47 of the Official Code of Georgia Annotated; to correct capitalization and spelling in Title 47 of the Official Code of Georgia Annotated; to provide for other matters relative to Title 47 of the Official Code of Georgia Annotated; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is amended in:

(1) Code Section 47-14-22, relating to powers and duties of the Board of Commissioners of the Superior Court Clerks' Retirement Fund of Georgia generally, by replacing "board of trustees" with "board" in the introductory language of (a)(9)(A) and divisions (a)(9)(A)(i) and (a)(9)(A)(iii) and in the introductory language of subparagraph (a)(10)(A), division (a)(10)(A)(i), and the undesignated paragraph at the end of subparagraph (a)(10)(A).

(2) Code Section 47-17-71, relating to the Peace Officers' Annuity and Benefit Fund and the grant of creditable service for active members previously denied membership in the fund because of race or ethnicity, by replacing "board of trustees" with "board" each time it appears.

(3) Code Section 47-25-22, relating to powers and duties of the Board of Commissioners of the Magistrates Retirement Fund of Georgia generally, by replacing "board of trustees" with "board" in paragraph (1) of subsection (c) each time it appears.

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 11, 2007.

CONSERVATION – STATE FORESTRY COMMISSION; DIRECTOR; QUALIFICATIONS.

No. 20 (Senate Bill No. 116).

AN ACT

To amend Part 1 of Article 1 of Chapter 6 of Title 12 of the Official Code of Georgia Annotated, relating to the State Forestry Commission, so as to change provisions relating to the qualifications of the director of the commission; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1 of Article 1 of Chapter 6 of Title 12 of the Official Code of Georgia Annotated, relating to the State Forestry Commission, is amended by revising Code Section 12-6-11, relating to the director of the commission, as follows:

"12-6-11.

The commission shall appoint, by and with the advice and consent of the Governor, a director, who shall be the executive secretary and administrative officer of the commission. When seeking candidates for the position of director, emphasis shall be placed on identifying individuals who hold a Bachelor of Science degree in forestry or who have significant experience in forest management. The director shall receive a salary fixed by the commission plus actual expenses as provided for other state officials and employees and shall hold office at the pleasure of the commission. The present director shall continue to serve until removed by the commission."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 11, 2007.

ELECTIONS – CODE REVISION; CORRECTIONS.

No. 21 (Senate Bill No. 124).

AN ACT

To amend Title 21 of the Official Code of Georgia Annotated, relating to elections, so as to correct typographical, stylistic, and other errors and omissions in Title 21 of the Official Code of Georgia Annotated and in Acts of the General Assembly amending Title 21 of the Official Code of Georgia Annotated; to correct capitalization and spelling in Title 21 of the Official Code of Georgia Annotated; to provide for necessary or appropriate revisions and modernizations of matters contained in Title 21 of the Official Code of Georgia Annotated;

to provide for other matters relating to Title 21 of the Official Code of Georgia Annotated; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 21 of the Official Code of Georgia Annotated, relating to elections, is amended in: (1) Code Section 21-2-374, relating to optical scanning voting systems and proper programming, proper order, testing, and supplies, by replacing "at least three days prior." with "at least three days prior thereto." at the end of the second sentence in subsection (b).

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 11, 2007.

CRIMINAL PROCEDURE – GEORGIA PUBLIC DEFENDER STANDARDS COUNCIL; TRANSFER TO EXECUTIVE BRANCH.

No. 22 (Senate Bill No. 139).

AN ACT

To amend Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, so as to transfer the Georgia Public Defender Standards Council from the judicial branch of government to the executive branch; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, is amended by revising Code Section 17-12-1, relating to the Georgia Public Defender Standards Council, as follows:

"17-12-1.

(a) This chapter shall be known and may be cited as the 'Georgia Indigent Defense Act of 2003.'

(b) The Georgia Public Defender Standards Council shall be an independent agency within the executive branch of state government.

(c) The council shall be responsible for assuring that adequate and effective legal representation is provided, independently of political considerations or private interests, to indigent persons who are entitled to representation under this chapter."

SECTION 2.

Said chapter is further amended by revising subsection (e) of Code Section 17-12-10.1, relating to the general oversight committee, as follows:

"(e) The council shall submit its budget estimate to the director of the Office of Planning and Budget in accordance with subsection (a) of Code Section 45-12-78. "

SECTION 3.

Said chapter is further amended by revising subsection (a) of Code Section 17-12-26, relating to the budget of the council, as follows:

"(a) The council shall prepare and submit to the Office of Planning and Budget an annual proposed budget necessary for fulfilling the purposes of this article in accordance with Code Section 45-12-78. The budget request shall be based on the previous year's expenditures and budget requests submitted by each circuit public defender, the Office of the Georgia Capital Defender, and the office of the mental health advocate. The council's total budget request for funding for the operations of the circuit public defender offices and the council's programs shall not exceed the amount of funds collected for indigent defense pursuant to Code Sections 15-21-73 and 15-21A-6; provided, however, that the General Assembly shall not be obligated to appropriate such amount for indigent defense. The council is also authorized to seek, solicit, apply for, and utilize funds from any public or private source to use in fulfilling the purposes of this article."

SECTION 4.

Said chapter is further amended by revising Code Section 17-12-30, relating to classification of personnel, responsibilities, compensation, and local supplements, as follows:

"17-12-30.

(a) All state paid personnel employed by the circuit public defenders pursuant to this article shall be employees of the executive branch of state government and shall be in the unclassified service of the State Merit System of Personnel Administration.

(b) Personnel employed by the circuit public defenders pursuant to this article shall have the authority, duties, powers, and responsibilities as are authorized by law or as assigned by the circuit public defender and shall serve at the pleasure of the circuit public defender.

(c)(1) The council shall establish salary ranges for each state paid position authorized by this article or any other provision of law. Salary ranges shall be similar to the state-wide and senior executive ranges adopted by the State Merit System of Personnel Administration and shall provide for minimum, midpoint, and maximum salaries not to exceed the maximum allowable salary. In establishing the salary ranges, all amounts will be rounded off to the nearest whole dollar. The council may, from time to time, revise the salary ranges to include across-the-board increases which the General Assembly may from time to time authorize in the General Appropriations Act.

(2) The circuit public defender shall fix the compensation of each state paid employee appointed pursuant to this article in accordance with the job to which the person is appointed and the appropriate salary range.

(3) All salary advancements shall be based on quality of work, training, and performance. The salary of state paid personnel appointed pursuant to this article may be increased at the first of the calendar month following the annual anniversary of the person's appointment. No employee's salary shall be advanced beyond the maximum established in the applicable pay range.

(4) Any reduction in salary shall be made in accordance with the salary range for the position and the policies, rules, or regulations adopted by the council.

(5) The compensation of state paid personnel appointed pursuant to this article shall be paid in equal installments by the council as provided by this subsection from funds appropriated for such purpose. The council may authorize employees compensated pursuant to this Code section to participate in voluntary salary deductions as provided by Article 3 of Chapter 7 of Title 45.

(6) The governing authority of the county or counties comprising a judicial circuit may supplement the salary or fringe benefits of any state paid position appointed pursuant to this article.

(7) The governing authority of any municipality within the judicial circuit may, with the approval of the circuit public defender, supplement the salary or fringe benefits of any state paid position appointed pursuant to this article."

SECTION 5.

This Act shall become effective on July 1, 2007.

SECTION 6.

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

Approved May 11, 2007.

RETIREMENT – LOCAL GOVERNMENT POST-EMPLOYMENT BENEFITS; BOARD OF REGENTS RETIREE HEALTH BENEFIT FUND.

No. 23 (Senate Bill No. 156).

AN ACT

To amend Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, so as to provide that counties, municipal corporations, and other political subdivisions may provide post-employment benefits other than retirement or pension benefits; to define certain terms; to provide that such plans may be prefunded to comply with certain financial reporting, disclosure, and actuarial requirements; to provide that such funds shall be held in trust for the intended purpose; to provide that such funds are declared to be public property exempt from state and local taxation; to create the Board of Regents Retiree Health Benefit Fund; to provide for a trust fund to provide for retiree post-employment health care benefits; to define certain terms; to provide for the powers and duties of the Board of Regents of the University System of Georgia; to provide for actuarial services; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is amended by revising subsection (h) of Code Section 47-20-10, relating to minimum annual employer contributions, as follows:

"(h) The minimum funding requirements of this Code section shall not apply to prefunding, in whole or in part, of anticipated future costs of providing other post-employment benefits as defined by Governmental Accounting Standards Board Statements Number 43 and Number 45 for retired employees of a political subdivision including those presently retired and those anticipated to retire in the future, as provided in Code Section 47-20-10.1. Such prefunding may be maintained as part of the same investment pool as the fund receiving employer and employee contributions to pay the cost of providing retirement benefits under any retirement system maintained by the political subdivision for its employees so long as such funds are separately accounted for and separate records are maintained with respect to each fund. Funds maintained by a political subdivision for the purpose of prefunding other post-employment benefits for retired employees may be invested and reinvested in accordance with the provisions of Code Section 47-1-12, or Article 7 of Chapter 20 of this title, as applicable, and, for the purposes of that Code section or article and the home rule

provisions of the laws and the Constitution of the State of Georgia only, such funds shall be treated in the same manner as retirement funds."

SECTION 2.

Said title is further amended by inserting after Code Section 47-20-10 a new Code section to read as follows:

"47-20-10.1.

(a) Political subdivisions are authorized to establish plans to provide for payment of other post-employment benefits, as defined by Governmental Accounting Standards Board Statements Number 43 and Number 45 for their eligible present and future retirees and other related expenses as described herein. Such benefits may be prefunded by irrevocable trusts or other authorized funding mechanisms subject to the financial reporting, disclosure, and actuarial requirements of Governmental Accounting Standards Board Statements Number 43 and Number 45 or any subsequent Governmental Accounting Standards Board updates or statements that may be applicable. Except as otherwise provided under subsection (c) of this Code section, the plan and assets of any trust or fund so established may be under the governance and investment authority of a retirement system maintained by the political subdivision or other board of trustees established for such purpose; provided, however, that the assets of any other post-retirement benefit plan, trust, or fund shall be separately accounted for and separate records shall be maintained. The prefunded amounts shall be available without fiscal year limitations for other post-employment benefits, as defined by Governmental Accounting Standards Board Statements Number 43 and Number 45, and administration costs. All employer contributions, plan participant contributions, appropriations, earnings, and reserves for the payment of obligations under the plan shall be credited to such trust or fund. The amounts remaining in such trust or fund, if any, after other post-employment benefit expenses and administration costs have been paid in any year shall be retained in such trust or fund for future payments until the satisfaction of all plan liabilities under the trust or fund for other post-employment benefits. All prefunded amounts shall be used solely for the payment of plan benefits and administrative costs and for no other purpose.

(b) Prefunded assets of whatever kind or nature of any other post-employment benefit plan or trust, and the earnings or proceeds derived from such investments or assets, are limited to paying other post-employment benefits and administrative costs and are declared to be public property and exempt from taxation by this state, or by any political subdivision of this state, and exempt from levy and sale, garnishment, attachment, or any other process whatsoever.

(c) Employers who are eligible to participate in the Georgia Municipal Employees Benefit System created by Chapter 5 of this title may establish or participate in another post-employment benefit plan, trust, or fund under the governance and investment authority of the board of trustees of the Georgia Municipal Employees Benefit System, notwithstanding any provision of this Code section or Code Section 47-20-10 to the

contrary. The assets of any such plan, trust, or fund under the governance and investment authority of the board of trustees of the Georgia Municipal Employees Benefit System may be maintained as part of the same investment pool as the system retirement fund and invested pursuant to the applicable provisions of Article 7 of Chapter 20 of Title 47, notwithstanding any provision of subsection (c) of Code Section 47-5-28 to the contrary, so long as the assets of the plan, trust, or fund and the Georgia Municipal Employees Benefit System retirement fund are separately accounted for and separate records are maintained for the plan, trust, or fund and the Georgia Municipal Employees Benefit System retirement fund."

SECTION 3.

Said title is further amended by revising Chapter 21, the "Regents Retirement Plan Act," by designating the existing provisions of said chapter as Article 1 and by adding a new article to read as follows:

"ARTICLE 2

47-21-20.

As used in this article, the term:

(1) 'Actuarial assumptions' means assumptions regarding the occurrence of future events affecting costs of the fund such as mortality, withdrawal, disability, and retirement; changes in compensation and offered post-employment benefits; rates of investment earnings and asset appreciation or depreciation; procedures used to determine the actuarial value of assets; and other relevant items.

(2) 'Actuarially sound' means that calculated contributions to the fund are sufficient to pay the full actuarial cost of the fund. The full actuarial cost includes both the normal cost of providing for fund obligations as they accrue in the future and the cost of amortizing the unfunded actuarial accrued liability over a period of no more than 30 years.

(3) 'Administrative expenses' means all expenses incurred in the operation of the fund, including all investment expenses.

(4) 'Annual required contribution' means the amount determined in accordance with requirements of Governmental Accounting Standards Board Statement No. 43, or any subsequent Governmental Accounting Standards Board statements that may be applicable to the fund.

(5) 'Board' means the Board of Regents of the University System of Georgia.

(6) 'Covered health care expenses' means all actual health care expenses incurred by the health plan with respect to fund beneficiaries. Actual health care expenses include claims incurred with respect to fund beneficiaries and premiums incurred with respect to intermediary entities and health care providers by the health plan.

(7) 'Employer' means the Board of Regents of the University System of Georgia and any department or institution of thereof that employs persons who are eligible to participate in the health plan.
(8) 'Fund' means the Board of Regents Retiree Health Benefit Fund established under this article.
(9) 'Health plan' means the board's health insurance plans established pursuant to authority granted to the board pursuant to Code Sections 20-3-31 and 20-3-51.
(10) 'Obligations' means the administrative expenses of the fund and the cost of covered health care expenses incurred on behalf of fund beneficiaries less any amounts received by or on behalf of fund beneficiaries.

47-21-21.
(a) There is created the Board of Regents Retiree Health Benefit Fund to provide for the employer costs of retiree post-employment health insurance benefits. The fund shall be a trust fund of public funds. The board in its official capacity shall be its trustee and the Chancellor in his or her official capacity shall be its administrator.
(b) The fund shall be available and dedicated without fiscal year limitations for covered health care expenses and administration costs. All employer and retiree contributions, appropriations, earnings, and reserves for the payment of obligations under this article shall be irrevocably credited to such fund. The amounts remaining in such fund, if any, after such health care expenses and administration costs have been paid shall be retained in such fund as a special reserve for covered health care expenses and administration costs. The board shall determine the time and amounts of distributions from the special reserve for covered health care expenses and administration costs. All assets of the fund shall be used solely for the payment of fund obligations and for no other purpose and shall be protected from creditors of the state and the board.

47-21-22.
(a) Responsibility for the proper operation of the fund is vested in the board.
(b) The board shall:
(1) Adopt actuarial assumptions as necessary and prudent;
(2) Employ such personnel as may be needed to carry out the provisions of this article and such personnel shall be employees of the board. The pro rata share of the costs of operating the board in the manner prescribed by law shall be a part of the administrative costs of the fund;
(3) Maintain all necessary records regarding the fund in accordance with generally accepted accounting principles, as applied to the fund;
(4) Collect all moneys due to the fund and shall pay any administrative expenses necessary and appropriate for the operation of the fund from the fund; and
(5) Cause to be prepared an annual report of fund activities. Such report shall include, but not be limited to, audited financial statements.

(c) The board may:

(1) Adopt any rules and regulations that it finds necessary to properly administer the fund;

(2) Employ or contract for the services of actuaries and other professionals as required to carry out the duties established by this article; and

(3) Contract with the Division of Investment Services of the Teachers Retirement System of Georgia or such other investment advisors as deemed appropriate and prudent by the board for any necessary services with respect to fund investments.

(d) Notwithstanding any other provision of law to the contrary, the board shall be entitled to any information that it deems necessary and appropriate from a university employee retirement system in order that the provisions of this article may be carried out.

47-21-23.

(a) The actuary employed or retained by the board shall provide technical advice to the board regarding the operation of the fund.

(b) Utilizing the actuarial assumptions most recently adopted by the board, the actuary shall set the annual actuarial present values for the state plan for other post-employment benefits.

47-21-24.

(a) The board shall have control over the fund established by this article. The provisions provided for in this article and all administrative expenses shall be paid from the fund. The board may expend moneys from the fund for any purpose authorized by this article.

(b) The board shall have full power to invest and reinvest its assets, subject to all of the terms, conditions, limitations, and restrictions imposed by Article 7 of Chapter 20 of Title 47, the 'Public Retirement Systems Investment Authority Law.' Subject to such terms, conditions, limitations, and restrictions, the board shall have full power to hold, purchase, sell, assign, transfer, and dispose of any securities and investments in which any of the moneys are invested, including the proceeds of any investments and other moneys belonging to the fund.

(c) Except as otherwise provided in this chapter, no member or employee of the board shall have any personal interest in the gains or profits from any investment made by the board or use the assets of the fund in any manner, directly or indirectly, except to make such payments as may be authorized by the board in accordance with this article.

47-21-25.

(a) The board shall annually determine the minimum annual required contributions sufficient to maintain the fund in an actuarially sound manner in accordance with Governmental Accounting Standards Board Statement No. 43, or any subsequent Governmental Accounting Standards Board statements that may be applicable to the fund.

(b) The board may annually establish employer contribution rates for the purpose of establishing the health plan from fiscal year to fiscal year and additional employer contribution rates in accordance with the health plan for other post-employments benefits.
(c) It shall be the responsibility of employers to make contributions to the fund in accordance with the employer contribution rates established by the board."

SECTION 4.

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

Approved May 11, 2007.

RETIREMENT – DISABILITY BENEFITS AND ALLOWANCES.

No. 24 (Senate Bill No. 162).

AN ACT

To amend Code Section 47-2-123 of the Official Code of Georgia Annotated, relating to allowance payable upon death, disability, or involuntary separation from employment, restrictions on separating from employment, and restrictions on entitlement to involuntary separation benefits, so as to provide that a person who becomes a member of the Employees' Retirement System of Georgia on or after July 1, 2007, shall be entitled to a disability benefit based upon the actual years of creditable service he or she had attained on the date of retirement; to provide that no such person who is eligible for an equivalent service retirement shall be entitled to receive a disability allowance; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 47-2-123 of the Official Code of Georgia Annotated, relating to allowance payable upon death, disability, or involuntary separation from employment, restrictions on separating from employment, and restrictions on entitlement to involuntary separation benefits, is amended by revising subsection (c) as follows:

"(c)(1) The provisions of this paragraph shall apply only to persons who are members of the retirement system on June 30, 2007. Any member who is at least 60 years of age upon disability retirement, involuntary separation from employment without prejudice, or death shall receive the equivalent of a service retirement allowance. Any such member

who is under 60 years of age shall receive, as appropriate, a disability allowance, allowance in case of involuntary separation from employment without prejudice, or death allowance, which shall consist of:

(A) In the case of a member with at least 15 years of service, 75 percent of the service retirement allowance which would have been payable upon service retirement at age 60 had the member continued in service to age 60 without further change in compensation, provided that this subparagraph shall not apply to a member whose employment was terminated by involuntary separation without prejudice;

(B) In the case of a member with at least 20 years of service, the service retirement allowance which would have been payable upon service retirement at age 60 had the member continued in service to age 60 without further change in compensation;

(C) In the case of a member with at least 25 years of service, 75 percent of the service retirement allowance which would have been payable upon service retirement at age 65 had he or she continued in service without further change in compensation; or

(D) In the case of a member with at least 30 years of service, the service retirement allowance which would have been payable upon service retirement at age 65 had he or she continued in service without further change in compensation.

Any provisions of this chapter to the contrary notwithstanding, in the application of subparagraphs (A), (B), (C), and (D) of this paragraph relating to allowances other than for disability or death, projected retirement allowance computations shall be made on the basis of the member's highest total monthly earnable compensation, as reflected by monthly contributions made during the last 24 calendar months in which he or she had made contributions, except that no salary increase by adjustment in compensation in any manner in excess of 10 percent during the last 12 months of membership service shall be included in the projected computation.

(2) The provisions of this paragraph shall apply only to persons who first or again become members of the retirement system on or after July 1, 2007. Any member who has at least 15 years of creditable service and who becomes disabled before becoming eligible for a service retirement as provided in subsection (a) of Code Section 47-2-110 shall be eligible to retire forthwith without regard to age and to receive a disability retirement allowance calculated upon the number of years of creditable service attained to the date of retirement and based upon his or her highest average monthly compensation during a period of 24 consecutive calendar months while a member of the retirement system. No member who is eligible for an equivalent service retirement shall be eligible to apply for a disability retirement allowance."

SECTION 2.

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

Approved May 11, 2007.

AGRICULTURE – AGRICULTURAL COMMODITIES COMMISSIONS; RATIFICATION, GOVERNANCE, AND BALLOTING.

No. 25 (Senate Bill No. 165).

AN ACT

To amend Article 2 of Chapter 8 of Title 2 of the Official Code of Georgia Annotated, relating to agricultural commodity commissions generally, so as to change certain provisions relating to ratification of commissions, governance by said chapter, and balloting to determine continued existence; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 8 of Title 2 of the Official Code of Georgia Annotated, relating to agricultural commodity commissions generally, is amended by revising Code Section 2-8-13, relating to ratification of commissions, governance by said chapter, and balloting to determine continued existence, as follows:

"2-8-13.

(a)(1) Each of the following commissions heretofore established pursuant to the 'Georgia Agricultural Commodities Promotion Act,' (Ga. L. 1961, p. 301), as amended, effective from the date set forth below opposite its name, is ratified and confirmed as a public corporation and instrumentality of the State of Georgia from and since such date:

(A) The Agricultural Commodity Commission for Milk established July 1, 1961;

(B) The Agricultural Commodity Commission for Eggs established July 1, 1961;

(C) The Agricultural Commodity Commission for Peanuts established August 1, 1961;

(D) The Agricultural Commodity Commission for Sweet Potatoes established August 1, 1961;

(E) The Agricultural Commodity Commission for Peaches established May 1, 1962;

(F) The Agricultural Commodity Commission for Tobacco established July 1, 1962;

(G) The Agricultural Commodity Commission for Apples established August 1, 1962; and

(H) The Agricultural Commodity Commission for Cotton established August 1, 1965.

(2) Each of the following entities that were formed de facto to act as commodity commissions upon presentation by the producers of the affected agricultural commodity of a list of nominees for appointment and on which ex officio members elected by the House Committee on Agriculture and Consumer Affairs and the Senate Agriculture and

Consumer Affairs Committee served, is ratified and confirmed as a public corporation and instrumentality of the State of Georgia from and since such date:

(A) The Agricultural Commodity Commission for Soybeans established September 1, 1971;

(B) The Agricultural Commodity Commission for Canola established June 24, 1994;

(C) The Agricultural Commodity Commission for Pecans established June 24, 1994;

(D) The Agricultural Commodity Commission for Corn established March 24, 1995; and

(E) The Agricultural Commodity Commission for Vegetables established June 19, 2006.

(b)(1) All actions taken by each of the commissions enumerated in paragraph (1) of subsection (a) of this Code section prior to July 1, 1969, pursuant to terms of Ga. L. 1961, p. 301, as amended, are ratified; and all funds received by each of the commissions after the effective date shown opposite its name and prior to July 1, 1969, are determined to have been voluntarily contributed pursuant to subsection (h) of Code Section 2-8-14 and to constitute trust funds of such commission as provided in Code Section 2-8-17. Each of such commissions shall, from and after July 1, 1969, be organized and constituted, have corporate existence, and possess powers and duties as stated in this article and shall be governed and controlled by this article; provided, however, that any contract obligation or other undertaking entered into or incurred by or in behalf of any such commission prior to July 1, 1969, shall be valid and binding if authorized by Ga. L. 1961, p. 301, as amended.

(2) All actions taken by each of the commissions enumerated in paragraph (2) of subsection (a) of this Code section prior to the effective date of this paragraph pursuant to terms of Ga. L. 1969, p. 763, as amended, or this article are ratified; and all funds received by each of the commissions on or after the effective date shown opposite its name and prior to the effective date of this paragraph are determined to have been voluntarily contributed pursuant to subsection (h) of Code Section 2-8-14 and to constitute trust funds of such commission as provided in Code Section 2-8-17. Each of such commissions shall, from and after the effective date of this paragraph, be organized and constituted, have corporate existence, and possess powers and duties as stated in this article and shall be governed and controlled by this article; provided, however, that any contract obligation or other undertaking entered into or incurred by or in behalf of any such commission prior to the effective date of this paragraph shall be valid and binding if authorized by Ga. L. 1969, p. 763, as amended, or this article.

(c)(1) Prior to April 30, 1971, and each three years thereafter, balloting shall be conducted in accordance with Code Section 2-8-23 to determine whether any existing commission listed in paragraph (1) of subsection (a) of this Code section shall continue to exist and operate under this article.

(2) Prior to April 30, 2009, and each three years thereafter, balloting shall be conducted in accordance with Code Section 2-8-23 to determine whether any existing commission

listed in paragraph (2) of subsection (a) of this Code section shall continue to exist and operate under this article."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 11, 2007.

EDUCATION – PUBLIC OFFICERS – TEACHERS; SCHOOL AND PUBLIC EMPLOYEES; HEALTH INSURANCE; GEORGIA RETIREE HEALTH BENEFIT FUND; TRUST CHARACTERISTICS.

No. 26 (Senate Bill No. 172).

AN ACT

To amend provisions of the Official Code of Georgia Annotated relating to public employee health care; to amend Subparts 1 and 2 of Part 6 of Article 17 of Chapter 2 of Title 20 and Article 1 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to health insurance plans for teachers, public school employees, and employees of the state, respectively, so as to amend provisions relating to the health insurance funds; to provide for employer and retiree contributions to the Georgia Retiree Health Benefit Fund; to amend Article 6 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to the Georgia Retiree Health Benefit Fund, so as to affirm its trust characteristics; to amend definitions; to provide powers and duties of the board, department, and commissioner of community health; to clarify purposes of the reserve; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Subpart 1 of Part 6 of Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to health insurance plans for teachers, is amended by adding a new Code Section 20-2-898 to read as follows:

"20-2-898.

Notwithstanding any other provisions of this subpart, the board shall deposit into the Georgia Retiree Health Benefit Fund created by Code Section 45-18-101 the individual contributions by retirees and the employer contributions respecting retirees provided for by this subpart."

SECTION 2.

Said Subpart 2 of Part 6 of Article 17 of Chapter 2 of Title 20 is further amended by adding a new Code Section 20-2-926 to read as follows:

"20-2-926.

Notwithstanding any other provisions of this subpart, the board shall deposit into the Georgia Retiree Health Benefit Fund created by Code Section 45-18-101 the individual contributions by retirees and the employer contributions respecting retirees provided for by this subpart."

SECTION 3.

Article 1 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to the health insurance fund for public employees, is amended adding to a new Code Section 45-18-21 to read as follows:

"45-18-21.

Notwithstanding any other provisions of this article, the board shall deposit into the Georgia Retiree Health Benefit Fund created by Code Section 45-18-101 the individual contributions by retirees and the employer contributions respecting retirees provided for by this article."

SECTION 4.

Article 6 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to the Georgia Retiree Health Benefit Fund, is amended by inserting a new paragraph (9.1) in Code Section 45-18-100, relating to definitions, to read as follows:

"(9.1) 'Commissioner' means the commissioner of community health."

SECTION 5.

Said Article 6 of Chapter 18 of Title 45 is further amended by revising paragraph (10) of Code Section 45-18-100, relating to definitions, as follows:

"(10) 'Covered health care expenses' means all actual health care expenses incurred by the health plan with respect to fund beneficiaries. Actual health care expenses include claims incurred with respect to fund beneficiaries and providers and premiums incurred with respect to intermediary entities and health care providers by the health plan."

SECTION 6.

Said Article 6 of Chapter 18 of Title 45 is further amended by revising paragraph (15) of Code Section 45-18-100, relating to definitions, as follows:

"(15) 'Fund beneficiaries' means all persons receiving post-employment health care benefits as retirees or derivatively through retirees through the health plan."

SECTION 7.

Said Article 6 of Chapter 18 of Title 45 is further amended by revising Code Section 45-18-101, providing for the Georgia Retiree Health Benefit Fund, as follows:

"45-18-101.

(a) There is created the Georgia Retiree Health Benefit Fund to provide for the costs of retiree post-employment health insurance benefits. The fund shall be a trust fund of public funds; the board in its official capacity shall be the fund's trustee; and the commissioner in his or her official capacity shall be its administrator.

(b) The fund shall be available and dedicated without fiscal year limitations for covered health care expenses and administration costs. All employer and retiree contributions, appropriations, earnings, and reserves for the payment of obligations under this article shall be irrevocably credited to such fund. The amounts remaining in such fund, if any, after such health care expenses and administration costs have been paid shall be retained in such fund as a special reserve for covered health care expenses and administration costs. The board shall determine the time and amounts of distributions from the special reserve for covered health care expenses and administration costs. All assets of the fund excluding amounts identified in subsection (c) of this Code section shall be used solely for the payment of fund obligations and for no other purpose and shall be protected from creditors of the state and the employers."

SECTION 8.

Said Article 6 of Chapter 18 of Title 45 is further amended by revising Code Section 45-18-102, relating to the responsibilities, duties, and powers of the department, board, and commissioner of community health with regard to the Georgia Retiree Health Benefit Fund, as follows:

"45-18-102.

(a) Responsibility for the proper operation of the fund is vested in the department.

(b) The board shall adopt actuarial assumptions as it deems necessary and prudent.

(c) Reserved.

(d) The board may adopt any rules and regulations that it finds necessary to properly administer the fund.

(e) The board shall adopt rules and regulations to account for employer contributions and other assets separately and by each pension plan separately.

(f) The commissioner, as executive officer of the board, shall employ such personnel as may be needed to carry out the provisions of this article and such personnel shall be

employees of the Department of Community Health. The pro rata share of the costs of operating the Department of Community Health in the manner prescribed by law shall be a part of the administrative costs of the fund.

(g) The department may employ or contract for the services of actuaries and other professionals as required to carry out the duties established by this article.

(h) The department shall contract with the Division of Investment Services of the Teachers Retirement System of Georgia and the Employees' Retirement System of Georgia for any necessary services with respect to fund investments.

(i) The department shall maintain all necessary records regarding the fund in accordance with generally accepted accounting principles, as applicable to the fund.

(j) The department shall collect all moneys due to the fund and shall pay any administrative expenses necessary and appropriate for the operation of the fund from the fund.

(k) The department shall prepare an annual report of fund activities for the board, the House Appropriations Committee, and the Senate Appropriations Committee. Such reports shall include, but not be limited to, audited financial statements. The reports shall contain the most recent information reasonably available to the department reflecting the obligations of the fund, earnings on investments, and such other information as the board deems necessary and appropriate. This report is due September 30 and shall reflect activity on a state fiscal year basis.

(l) Notwithstanding any other provision of law to the contrary, the department shall be entitled to any information that it deems necessary and appropriate from a retirement system in order that the provisions of Code Section 45-18-103 may be carried out."

SECTION 9.

Said Article 6 of Chapter 18 of Title 45 is further amended by revising Code Section 45-18-104, relating to the control, investment, and regulation of conflicts of interest of board members with regard to the Georgia Retiree Health Benefit Fund, as follows:

"45-18-104

(a) Subject to the supervision of the board, the commissioner shall have control over the fund established by this chapter. The obligations provided for in this chapter and all administrative expenses shall be paid from the fund. The department may expend moneys from the fund for any purpose authorized by this chapter.

(b) Subject to the supervision of the board, the commissioner shall have full power to invest and reinvest its assets, subject to all of the terms, conditions, limitations, and restrictions imposed by Article 7 of Chapter 20 of Title 47, the 'Public Retirement Systems Investment Authority Law.' Subject to such terms, conditions, limitations, and restrictions, the commissioner shall have full power to hold, purchase, sell, assign, transfer, and dispose of any securities and investments in which any of the moneys are invested, including the proceeds of any investments and other moneys belonging to the fund.

(c) Except as otherwise provided in this chapter, no member of the board or employee of the department shall have any personal interest in the gains or profits from any investment made by the board or use the assets of the fund in any manner, directly or indirectly, except to make such payments as may be authorized by the board or by the commissioner as the executive officer of the board in accordance with this article."

SECTION 10.

Said Article 6 of Chapter 18 of Title 45 is further amended by revising Code Section 45-18-105, relating to the determination of annual required contributions and annual employer contribution rates with regard to the Georgia Retiree Health Benefit Fund, as follows:

"45-18-105.

(a) The board shall annually determine the minimum annual required contributions sufficient to maintain the fund in an actuarially sound manner in accordance with Governmental Accounting Standards Board Statement No. 43, or any subsequent Governmental Accounting Standards Board statements that may be applicable to the fund.

(b) In addition to the employer contributions required to be made to the fund for the health plan as determined from fiscal year to fiscal year under Part 6 of Article 17 of Chapter 2 of Title 20 and under Article 1 of this chapter, the board may annually establish employer contribution rates in accordance with the state plan for other post-employment benefits.

(c) It shall be the responsibility of state agencies to make contributions to the fund, subject to appropriations, in accordance with the employer contribution rate established by the board.

(d) It shall be the responsibility of all other employers to make contributions to the fund in accordance with the employer contribution rates established by the board in addition to the employer contributions required to be made to the fund for the health plan as determined from fiscal year to fiscal year under Part 6 of Article 17 of Chapter 2 of Title 20 and Article 1 of this chapter."

SECTION 11.

This Act shall become effective July 1, 2007.

SECTION 12.

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

Approved May 11, 2007.

CONSERVATION – STATE FORESTRY COMMISSION REPORTS.

No. 27 (Senate Bill No. 176).

AN ACT

To amend Part 1 of Article 1 of Chapter 6 of Title 12 of the Official Code of Georgia Annotated, relating to the State Forestry Commission, so as to change certain provisions relating to reports to the General Assembly; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1 of Article 1 of Chapter 6 of Title 12 of the Official Code of Georgia Annotated, relating to the State Forestry Commission, is amended by revising Code Section 12-6-10, relating to reports to the General Assembly, as follows:

"12-6-10.

It shall be the duty of the commission, in cooperation with the director provided for in Code Section 12-6-11, to:

(1) Annually submit reports to each regular session of the General Assembly together with such information as is necessary to show the condition of the forest resources of the state, with particular reference to the protection, preservation, and propagation of timber growth, and all other matters pertaining to the forest resources, and with recommendations for necessary legislation as to protection, reforestation, and management; and

(2) Quinquennially submit reports to the General Assembly verifying the ability of forest resources in this state to meet the needs of the present without compromising the ability to meet the needs of future generations. The first such report shall be due not later than July 1, 2008. The director shall prescribe the manner, procedures, and data necessary to produce such report."

SECTION 2.

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

Approved May 11, 2007.

PUBLIC OFFICERS – ARCHIVES AND HISTORY BRANCH DEPOSITORY; ELECTRONIC ARCHIVAL RECORDS.

No. 28 (Senate Bill No. 210).

AN ACT

To amend Article 3 of Chapter 13 of Title 45 of the Official Code of Georgia Annotated, relating to the Division of Archives and History, so as to authorize the Secretary of State to designate and establish facilities occupied by a government agency as a branch depository under certain circumstances; to provide that the Division of Archives and History shall own and operate any equipment necessary to manage and retain control of electronic archival records but may contract with third parties for services related to the management of such records; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 3 of Chapter 13 of Title 45 of the Official Code of Georgia Annotated, relating to the Division of Archives and History, is amended by revising Code Section 45-13-45, relating to powers of Secretary of State with respect to management of division generally, by adding a new subsection as follows:

"(c) The Secretary of State is authorized to designate and establish, as a branch depository of the Division of Archives and History for the storage and retention of permanent records, temporary records, or security backup media in any format, facilities occupied by any government agency; provided, however, that no such designation and establishment of a branch depository shall be made unless the Secretary of State shall obtain the prior written approval of the government agency involved. Records in the custody of such depositories shall be subject to the same laws, standards, and policies as any records in the physical custody of the Division of Archives and History including, but not limited to, Code Section 50-18-98. The Secretary of State may expend such funds as are necessary or desirable for the maintenance and operation of any such facilities; for the preservation and safeguarding of the contents thereof; and for the employment of such persons as are necessary and desirable for the accomplishment of such maintenance, operation, preservation, and safeguarding. Such depositories may be operated on a cost recovery basis. The Secretary of State may enter into such contractual arrangements as he or she deems to be in the public interest for creating and operating such branch depositories. The records or digital content maintained in such branch depositories shall be under the immediate management and control of the Division of Archives and History. The Secretary of State may abolish such branch depository at any time."

SECTION 2.

Said article is further amended by revising Code Section 45-13-46, relating to surrender of materials to division for preservation, as follows:

"45-13-46.

(a) Any state, county, or other official is authorized, in his or her discretion, to turn over for permanent preservation in the Division of Archives and History any official books, records, documents, original papers, manuscript files, newspaper files, portraits, and printed volumes not in current use in his or her office. Any record created or received by a state agency, constitutional officer, or Speaker of the House of Representatives in the performance of a public duty or paid for by public funds and certified by the director of the Division of Archives and History as necessary to document the history, organization, functions, policies, decisions, and procedures of the agency or office shall be placed for permanent preservation in the Division of Archives and History when no longer in current use by the agency or officer. The Secretary of State shall provide for the preservation of said materials; and, when so surrendered, copies thereof shall be made and certified by the director upon the application of any person interested, which certification shall have the same force and effect as if made by the officers originally in custody of them and for which the same fees shall be charged.

(b) The Division of Archives and History shall own and operate any equipment necessary to manage and retain control of electronic archival records in its custody but may, at its discretion, contract with third-party entities to provide any or all services related to managing archival records on equipment owned by the contractor, by other third parties, or by the Division of Archives and History.

(c) Personal and official records and papers of the Lieutenant Governor and the Speaker of the House of Representatives shall be exempt from the provisions of subsection (a) of this Code section when such records and papers are deposited in a repository that meets the minimum archival and public access standards promulgated by the Division of Archives and History.

(d) As used in this Code section, the term 'constitutional officer' means any officer enumerated in Article V, Section I, Paragraph I; Article V, Section I, Paragraph III; or Article V, Section III, Paragraph I of the Constitution of the State of Georgia."

SECTION 3.

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

Approved May 11, 2007.

JOINT STUDY COMMITTEE ON
INDIGENT DEFENSE.

No. 29 (Senate Resolution No. 246).

A RESOLUTION

Creating the Joint Study Committee on Indigent Defense; and for other purposes.

WHEREAS, the representation of those indigent persons charged with crimes in this state is important to ensure that such individuals are treated fairly and are afforded all of the rights guaranteed to them by the United States and Georgia Constitutions; and

WHEREAS, the provision of indigent defense services is an issue which the General Assembly has addressed on numerous occasions in the past and has attempted several different delivery methods with varying degrees of success; and

WHEREAS, most recently, the General Assembly created the Georgia Public Defender Standards Council and established state funded, circuit-wide public defenders for the state with the intent that such programs would provide an efficient, appropriate, and cost-effective service delivery model for indigent defense services; and

WHEREAS, in the short time that this program has been in existence, it is already experiencing significant budgetary shortfalls, placing the entire program in peril; and

WHEREAS, significant reforms are needed to ensure the economic viability of indigent defense services in this state to meet the obligations of the state in this area; and

WHEREAS, the General Assembly needs to study these issues to determine the causes for the budgetary shortfalls in the present service delivery model and whether the present model is best for the state or whether a more efficient system can be devised to more economically protect the rights of indigents charged with crimes in this state.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that there is created the Joint Study Committee on Indigent Defense to be composed of 16 members. Six members shall be appointed by the Lieutenant Governor. Four members appointed by the Lieutenant Governor shall be members of the Senate. The Lieutenant Governor shall designate one of the members of the Senate to serve as cochairperson of the committee. One member appointed by the Lieutenant Governor shall be an attorney in this state with significant experience in criminal defense matters and one member shall be a county commission chairperson in this state. Six members shall be

appointed by the Speaker of the House of Representatives, four of whom shall be members of the House of Representatives. The Speaker shall designate one of the members from the House of Representatives to serve as cochairperson of the committee. One member appointed by the Speaker shall be an attorney in this state with significant experience in criminal defense matters and one shall be a county commission chairperson in this state. One member shall be a district attorney appointed by the Prosecuting Attorneys' Council of the State of Georgia. Two members shall be superior court judges appointed by the executive committee of The Council of Superior Court Judges. One member shall be the chairperson of the Georgia Public Defender Standards Council. The cochairpersons shall call all meetings of the committee.

BE IT FURTHER RESOLVED that the committee shall undertake a study of the conditions, needs, issues, and problems mentioned above or related thereto and recommend any actions or legislation that the committee deems necessary or appropriate. The committee may conduct such meetings at such places and at such times as it may deem necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this resolution. The legislative members of the committee shall receive the allowances authorized for legislative members of interim legislative committees but shall receive the same for not more than five days unless additional days are authorized. The attorneys, the county commission chairperson, the district attorneys, and the superior court judges shall not receive any compensation for their service on the committee but shall be reimbursed for their actual expenses incurred in serving on the committee. The funds necessary to carry out the provisions of this resolution shall come from the funds appropriated to the House of Representatives and the Senate. In the event that the committee makes a report of its findings and recommendations with suggestions for proposed legislation, if any, such report shall be made on or before the convening of the 2008 session of the General Assembly, at which time the committee shall stand abolished.

Approved May 11, 2007.

STATE GOVERNMENT – CONFIDENTIAL PUBLIC EMPLOYEE RECORDS.

No. 30 (Senate Bill No. 212).

AN ACT

To amend Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to public records which are not required to be made available for public inspection and copying, so as to provide that disclosure to the news media shall not be required for social security numbers or the day and month of birth of public employees; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to public records which are not required to be made available for public inspection and copying, is amended by revising subparagraph (a)(11.3)(A) as follows:

"(11.3)(A) An individual's social security number, mother's birth name, credit card information, debit card information, bank account information, financial data or information, and insurance or medical information in all records, and if technically feasible at reasonable cost, day and month of birth, which shall be redacted prior to disclosure of any record requested pursuant to this article; provided, however, that such information shall not be redacted from such records if the person or entity requesting such records requests such information in a writing signed under oath by such person or a person legally authorized to represent such entity which states that such person or entity is gathering information as a representative of a news media organization for use in connection with news gathering and reporting; and provided, further, that such access shall be limited to social security numbers and day and month of birth; and provided, further, that this news media organization exception for access to social security numbers and day and month of birth and the other protected information set forth in this subparagraph shall not apply to teachers, employees of a public school, or public employees as set forth in paragraph (13.1) of this subsection. For purposes of this subparagraph, the term 'public employee' means any nonelected employee of the State of Georgia or its agencies, departments, or commissions or any county or municipality or its agencies, departments, or commissions."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 11, 2007.

STATE GOVERNMENT – GEORGIA TECHNOLOGY AUTHORITY; ETHICAL STANDARDS.

No. 31 (Senate Bill No. 280).

AN ACT

To amend Code Section 50-25-7.7 of the Official Code of Georgia Annotated, relating to ethical standards for the executive director and employees of the Georgia Technology Authority, so as to provide that an officer or employee of such authority shall not have greater than a 1 percent ownership interest in entities doing business with the authority; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 50-25-7.7 of the Official Code of Georgia Annotated, relating to ethical standards for the executive director and employees of the Georgia Technology Authority, is amended by revising subsection (a) as follows:

"(a) Neither the executive director nor any employee of the authority shall be financially interested or have a personal beneficial interest in an amount greater than 1 percent ownership interest in any firm, corporation, partnership, or association which is involved either directly or indirectly in the purchase of or contract for any materials, equipment, or supplies, or an ownership interest greater than 1 percent in any such firm, corporation, partnership, or association furnishing any such supplies, materials, or equipment to agencies or the authority. Except as provided in subsection (b) of this Code section, it shall be unlawful for the executive director or any of his or her assistants or any employee of the authority to accept or receive, directly or indirectly, from any person, firm, or corporation

to whom any contract may be awarded any money or anything of more than nominal value or any promise, obligation, or contract for future reward or compensation."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 11, 2007.

COURTS – GRIFFIN CIRCUIT;
PIKE COUNTY; COURT TERMS.

No. 32 (Senate Bill No. 177).

AN ACT

To amend Code Section 15-6-3 of the Official Code of Georgia Annotated, relating to terms of superior courts, so as to change certain terms of court in Pike County in the Griffin Circuit; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 15-6-3 of the Official Code of Georgia Annotated, relating to terms of superior courts, is amended by revising paragraph (19) as follows:

"(19) GRIFFIN CIRCUIT:

(A) Fayette County — First Monday in March and second Monday in September.

(B) Pike County — Third Monday in April and October.

(C) Spalding County — First Monday in February, June, and October.

(D) Upson County — Third Monday in March and August and first Monday in November."

SECTION 2.

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

Approved May 14, 2007.

REVENUE – CONSERVATION USE; AGRITOURISM.

No. 33 (House Bill No. 78).

AN ACT

To amend Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to bona fide conservation use property, so as to provide for additional acts which shall not constitute a breach of a conservation use covenant; to provide for a definition; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to bona fide conservation use property, is amended in subsection (p) by replacing "; or" at the end of paragraph (5) with a semicolon; by replacing the period at the end of paragraph (6) with "; or"; and by adding a new paragraph to read as follows:

"(7)(A) Allowing all or part of the property subject to the covenant to be used for agritourism purposes.

(B) As used in this paragraph, the term 'agritourism' means charging admission for persons to visit, view, or participate in the operation of a farm or dairy or production of farm or dairy products for entertainment or educational purposes or selling farm or dairy products to persons who visit such farm or dairy."

SECTION 2.

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

Approved May 14, 2007.

GAME AND FISH – DEFINITIONS; VETERAN'S LIFETIME SPORTSMAN'S LICENSES.

No. 34 (House Bill No. 81).

AN ACT

To amend Title 27 of the Official Code of Georgia Annotated, relating to game and fish, so as to change certain provisions relating to definitions; to provide for veterans' lifetime sportsman's licenses and fees therefor; to change certain provisions relating to charter fishing guide and pier fishing licenses, fees, and maintenance of records; to provide for new licenses relative to salt water fishing; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended by adding to Code Section 27-1-2, relating to definitions, new paragraphs to read as follows:

"(61.1) 'Salt water fishing guide' means a person engaged in the occupation of taking fee-paying anglers fishing in the salt waters of this state.

(61.2) 'Salt water fishing pier' means a permanent structure built and maintained for the purpose of providing fishing access in the salt waters of this state and associated with a hotel or motel."

SECTION 1A.

Said title is further amended by revising subsections (e) and (f) of Code Section 27-2-3.1, relating to archery and primitive weapons hunting licenses, all weapons hunting licenses, sportsmen's licenses, license card carrier requirements, and creation of lifetime sportsman's licenses, as follows:

"(e)(1) The requirements in this title for procuring any license, stamp, or permit for noncommercial hunting and fishing privileges shall be satisfied by a resident or nonresident who procures a lifetime sportsman's license.

(2) An applicant for such license who is a resident shall, prior to the issuance of the license, provide satisfactory evidence of residency.

(3) An applicant for a veteran's lifetime sportsman's license shall, in addition to satisfactory evidence of residency, be required to provide satisfactory evidence that he or she served more than 90 days of federal active duty military service and was honorably discharged.

(4) An applicant for such license who is a nonresident shall not be eligible for issuance of such license unless he or she is under 16 years of age and is the grandchild of a

resident who holds a valid paid lifetime sportsman's license. The resident grandparent who holds such a lifetime sportsman's license and who is the sponsor of a nonresident applicant for a lifetime sportsman's license must certify the nonresident applicant's relationship to him or her in writing to the department.

(5) For purposes of procuring a lifetime sportsman's license, the term 'residency' means a domicile within Georgia for a minimum of 12 consecutive months immediately prior to procuring such license. Satisfactory evidence of residency shall consist of a current Georgia driver's license or official Georgia identification card issued by the Department of Driver Services and at least one of the following:

(A) A voter registration card;

(B) A copy of the prior year's Georgia income tax return;

(C) A current Georgia automobile registration; or

(D) A warranty deed to property at the same address as is displayed on the Georgia driver's license.

Minors under 18 years of age shall be presumed to be residents upon proof of parent's residency as provided for in this Code section. For purposes of procuring the Type I (Infant) lifetime license, a certified copy of the birth certificate of the licensee shall be required.

(f)(1) Lifetime sportsman's licenses and fees for residents shall be as follows:

(A) Type I (Infant), available only to those individuals under two years of age: $200.00;

(B) Type Y (Youth), available only to those individuals from two through 15 years of age: $350.00;

(C) Type A (Adult), available to those individuals 16 years of age or older: $500.00;

(D) Type SD (Senior Discount), available to those individuals 60 years of age or older: $95.00;

(E) Type S (Senior), available to those individuals 65 years of age or older: no charge; and

(F) Type V (Veterans), available only to those individuals who served more than 90 days of federal active duty military service and were honorably discharged: eighty percent of the amount of the fee specified for Type A lifetime sportsman's licenses in subparagraph (C) of this paragraph."

SECTION 2.

Said title is further amended by revising Code Section 27-2-23.2, relating to charter fishing guide and pier fishing licenses, fees, and maintenance of records, as follows:

"27-2-23.2.

(a) It shall be unlawful for any person to engage in the occupation of salt water fishing guide without holding a valid annual salt water fishing guide license pursuant to the provisions of this Code section.

(b)(1) A salt water fishing guide who possesses a valid United States Coast Guard operator of passenger vessel license may purchase an annual customer fishing license pursuant to the provisions of this Code section, which license shall cover all fee-paying anglers while fishing with such guide during the license year; and all such anglers while so covered shall be exempt from fishing license requirements otherwise applicable under this title.

(2) Any person operating a single hotel or motel facility having a salt water fishing pier or piers may purchase an annual salt water fishing pier license pursuant to the provisions of this Code section, which license shall cover all anglers while fishing from such salt water fishing pier during the license year; and all such anglers while so covered shall be exempt from fishing license requirements otherwise applicable under this title.

(b) Fees for licenses required under this Code section shall be as follows:

(1)(A) Resident salt water fishing guide license, $25.00;

(B) Nonresident salt water fishing guide license, $50.00;

(2)(A)(i) Customer fishing license for a resident salt water fishing guide carrying six or fewer fee-paying anglers, $150.00;

(ii) Customer fishing license for a resident salt water fishing guide carrying an unlimited number of fee-paying anglers, $400.00;

(B) Customer fishing license for a nonresident salt water fishing guide, $400.00; and

(3) Salt water fishing pier license, $400.00.

(c) Each person who holds a salt water fishing guide license or salt water fishing pier license pursuant to the provisions of this Code section shall report such information as required by the department at such times and in such manner as the board provides by rule or regulation."

SECTION 3.

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

Approved May 14, 2007.

GAME AND FISH – SHRIMP AND SHRIMPING; EXTENSIVE REVISION.

No. 35 (House Bill No. 100).

AN ACT

To amend Title 27 of the Official Code of Georgia Annotated, relating to game and fish, so as to extensively revise various provisions relative to shrimp and shrimping; to change

certain provisions relating to definitions relative to game and fish generally; to repeal certain provisions relating to size and construction requirements of cast nets; to change certain provisions relating to commercial fishing license requirement; to change certain provisions relating to lawful methods of fishing generally; to change certain provisions relating to lawful gear generally; to change certain provisions relating to required records; to change certain provisions relating to lawful commercial shrimping devices; to change certain provisions relating to taking of shrimp for noncommercial purposes generally; to change certain provisions relating to limit on amount of shrimp taken by cast net and penalty for violation; to change certain provisions relating to lawful nets, opening and closing waters, and identification on boats taking shrimp; to change certain provisions relating to maintenance of records by suppliers; to change certain provisions relating to taking of shrimp for recreational purposes, lawful nets and use of shrimp, and penalty for violation; to change certain provisions relating to penalties for using recreational food shrimp cast netting; to change certain provisions relating to sport bait shrimping; to change certain provisions relating to bait dealers; to change certain provisions relating to commercial shrimping license requirement; to change certain provisions relating to issuance of licenses, limits, and fees; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 27 of the Official Code of Georgia Annotated, relating to game and fish, is amended in Code Section 27-1-2, relating to definitions relative to game and fish generally, by adding new paragraphs (5.1) and (29.1) to read as follows:

"(5.1) 'Bait shrimp cast net' means a cast net constructed of a minimum of three-eighths inch bar mesh."

"(29.1) 'Food shrimp cast net' means:

(A) Until March 1, 2009, a cast net constructed of a minimum of one-half inch bar mesh; and

(B) On and after March 1, 2009, a cast net constructed of a minimum of five-eighths inch bar mesh."

SECTION 2.

Said title is further amended by revising paragraphs (10.1), (13.1), (13.2), (59.1), (59.2), (59.3), and (59.4) of Code Section 27-1-2, relating to definitions relative to game and fish generally, as follows:

"(10.1) 'Cast net' means a cone shaped net thrown and retrieved by hand without mechanical assistance and designed to spread out and capture fish and shrimp as the weighted circumference sinks to the bottom and comes together when pulled by a line."

SECTION 3.

Said title is further amended by repealing Code Section 27-4-13, relating to size and construction requirements of cast nets.

SECTION 4.

Said title is further amended by revising Code Section 27-4-110, relating to commercial fishing license requirement, as follows:

"27-4-110.

It shall be unlawful for any person other than a person in possession of a valid commercial crabbing license as provided for in Code Section 27-4-150, for purposes of such license, or a person in possession of a commercial food shrimp cast netting license as provided in Code Section 27-4-205, for purposes of such license, to engage in commercial fishing in any of the salt waters of this state without first obtaining a commercial fishing license, which shall be carried on his or her person while engaging in such activities. Each license shall be separate and distinct from each other and separate from and in addition to the commercial fishing boat license required by Code Section 27-2-8."

SECTION 5.

Said title is further amended in Code Section 27-4-112, relating to lawful methods of fishing generally, by adding a new subsection to read as follows:

"(h) It shall be unlawful to fish for shrimp for commercial purposes at night."

SECTION 6.

Said title is further amended by revising Code Section 27-4-113, relating to lawful gear generally, as follows:

"27-4-113.

Except as otherwise specifically authorized by law or regulation, it shall be unlawful for any person engaged in commercial salt-water fishing in this state to use any gear other than the following gear, which may only be used for the purposes and in the manner set forth below:

(1) Power-drawn nets or trawls used to fish for seafood from any of the salt waters of this state in accordance with Article 4 of this chapter;

(2) Commercial crab traps used in accordance with Article 4 of this chapter;

(3) Seines used in salt waters to fish for fish or crustaceans and purse seines used in salt waters to fish for fish or crustaceans, which seines or purse seines are used in accordance with Articles 3 and 4 of this chapter;

(4) Wire baskets, trotlines, or hoop nets used to fish for catfish in salt water in accordance with Article 3 of this chapter;

(5) Traps and pots used to fish for adult eels in accordance with Article 3 of this chapter;

(6) Nets used to fish for sturgeon in accordance with subsection (d) of Code Section 27-4-91;

(7) Set nets and drift nets used to fish commercially for shad in accordance with Article 3 of this chapter;
(8) Gill nets used to fish for shad or sturgeon in accordance with Code Section 27-4-7 and in accordance with Article 3 of this chapter;
(9) Gigs used to fish for flounder in salt water;
(10) Cast nets;
(11) Beach seines used to fish for seafood along public beaches in accordance with Article 4 of this chapter for commercial purposes;
(12) Tongs and dredges used to fish for oysters in accordance with Article 4 of this chapter;
(13) Clam rakes, other hand-held implements, and dredges used to fish for clams in accordance with Article 4 of this chapter for commercial purposes; and
(14) Pole and line used to fish for finfish for commercial purposes."

SECTION 7.

Said title is further amended by revising subsection (b) of Code Section 27-4-118, relating to required records, as follows:

"(b) Each person required to maintain records pursuant to the provisions of subsection (a) of this Code section shall report such information to the department, whose address for the purpose of reporting shall be the Coastal Resource Division headquarters, at such times and in such manner as the board provides by rule or regulation."

SECTION 8.

Said title is further amended by repealing Code Section 27-4-119, relating to lawful commercial shrimping devices.

SECTION 9.

Said title is further amended by revising Code Section 27-4-132, relating to taking of shrimp for noncommercial purposes generally, as follows:

"27-4-132.

(a) Except as otherwise provided by law, it shall be unlawful to fish for shrimp for noncommercial purposes in the salt waters of the State of Georgia except by means of a bait shrimp cast net, food shrimp cast net, a beach seine of a length and mesh size authorized for use in salt waters by subsection (d) of Code Section 27-4-112, or a ten-foot net in accordance with Code Section 27-4-170.

(b) Reserved.

(c) It shall be unlawful to fish for shrimp except at such times and places as the commissioner may establish. The commissioner is authorized to open or close any or a portion of the salt waters of this state to fishing for food shrimp at any time between May 15 and the last day of February if the commissioner has determined that such action in

opening or closing such waters is in accordance with current sound principles of wildlife research and management."

SECTION 10.

Said title is further amended by revising subsection (a) of Code Section 27-4-132.1, relating to limit on amount of shrimp taken by cast net and penalty for violation, as follows:

"(a)(1) No person or group of persons occupying the same boat fishing for shrimp for noncommercial purposes by means of a food shrimp cast net may take more than 48 quarts of shrimp with heads or 30 quarts of shrimp tails in any day. No such person or group of persons occupying the same vessel may possess at any time more than 48 quarts of shrimp with heads or 30 quarts of shrimp tails.

(2) Reserved.

(3)(A) No group of persons occupying the same boat, one or more of whom is in possession of a commercial food shrimp cast netting license and who are fishing for shrimp by means of a food shrimp cast net, may take more than 150 quarts of shrimp with heads or 95 quarts of shrimp tails taken by such cast net or a combination of a cast net and a seine in any day; provided, however, that beginning December 1 and until the close of each food shrimp season, possession shall be limited to 75 quarts of shrimp with heads or 48 quarts of shrimp tails in any day.

(B) No such group of persons occupying the same vessel may possess at any time more than 150 quarts of shrimp with heads or 95 quarts of shrimp tails; provided, however, that beginning December 1 and until the close of each food shrimp season, no such group of persons occupying the same vessel may possess at any time more than 75 quarts of shrimp with heads or 48 quarts of shrimp tails.

(4) No one person fishing for shrimp solely by means of a seine, whether such person is acting alone or in a group of persons, may take more than 24 quarts of shrimp with heads or 15 quarts of shrimp tails in any day. No such person may possess at any time more than 24 quarts of shrimp with heads or 15 quarts of shrimp tails. If any person or group of persons are in possession of a food shrimp cast net and a seine, such person or group of persons shall be subject to the limits imposed upon taking shrimp by food shrimp cast net.

(5) No person or group of persons fishing for food shrimp for commercial purposes shall have on board a vessel any cast net other than a food shrimp cast net.

(6) Reserved.

(7) No vessel owner shall allow the vessel to be used by any person or persons to take more than the legal quantity allowable in any day regardless of the number of trips made or the duration of any trip by such vessel. It shall be unlawful for any vessel owner or operator to allow a vessel to be left anchored and unoccupied for the purpose of receiving shrimp taken by the occupant of any other vessel."

SECTION 11.

Said title is further amended by revising Code Section 27-4-133, relating to lawful nets, opening and closing waters, and identification on boats taking shrimp, as follows:

"27-4-133.

(a) Except as otherwise specifically provided, it shall be unlawful for any person to use a power-drawn net in any of the salt waters of this state for commercial shrimping for human consumption. All sounds shall be closed to such fishing, except that the commissioner may open Cumberland, St. Simons, Sapelo, St. Andrew, Wassaw, or Ossabaw sounds or any combination of such sounds at any time between September 1 and December 31, provided that he or she has determined that the shrimp in the waters of each sound to be opened are 45 or fewer shrimp with heads on to the pound; and the commissioner shall close each sound so opened when he or she has determined that the shrimp in the waters of the sound exceed 45 shrimp with heads on to the pound. The commissioner may open any waters outside, on the seaward side, of the sounds between May 15 and December 31, provided that he or she has determined that the shrimp in such outside waters are 45 or fewer shrimp with heads on to the pound; and the commissioner shall close the waters so opened when he or she has determined that the shrimp in such outside waters exceed 45 shrimp with heads on to the pound. The commissioner may open any waters outside the sounds during the months of January and February, provided that he or she has determined that the shrimp in such outside waters are 50 or fewer shrimp with heads on to the pound; and the commissioner shall close such outside waters so opened when he or she has determined that the shrimp in such outside waters exceed 50 shrimp with heads on to the pound. The department shall conduct inspections for such shrimp count, and a determination by the commissioner shall be conclusive as to the count. The commissioner shall provide public notice of the opening and closing of such waters, as provided in this Code section, by posting a notice of all openings and closings at the courthouse and on all shrimp docks and by such other means as may appear feasible. The notices shall be posted at least 24 hours prior to any change in the opening and closing of any such waters, provided that such notice is required only when waters are opened or closed by action of the commissioner.

(a.1)(1) It shall be unlawful to fish for shrimp for human consumption with any trawl or trawls having a total foot-rope length greater than 220 feet, not including the foot-rope length of a single trawl not greater than 16 feet when used as a try net. Foot-rope shall be measured from brail line to brail line, first tie to last tie on the bottom line. The provisions of this subsection shall not apply to vessels having a maximum draft of seven feet or less when fully loaded. The department is authorized to exempt trawls used by persons holding a valid scientific collection permit granted by the department.

(2) A vessel operator who violates the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than $500.00 nor more than $2,500.00 or imprisoned for not longer than 30 days or both, and any trawl on board the vessel shall be contraband and may be seized.

(b) Reserved.

(c) Except as otherwise specifically provided, it shall be unlawful to fish with nets other than cast nets in any of the tidal rivers or creeks, except to fish for shad or sturgeon, provided that nothing contained in this Code section shall be construed so as to prohibit any person from using a beach seine along any public beach.
(d) The department shall have the power to close all or any portion of the salt waters of this state to commercial and recreational fishing in the event of a disaster likely to cause seafood to be unfit for human consumption or in the event of any other emergency situation.
(e) Nothing contained in this Code section shall be construed to prohibit any person from fishing in the salt waters of this state for shrimp to be used or sold for live bait pursuant to Code Sections 27-4-170 and 27-4-171, provided that it shall be unlawful to fish for shrimp for bait with any trawl equipment which has been used to fish for shrimp pursuant to this Code section.
(f) In accordance with current, sound principles of wildlife research and management, as provided by Code Section 27-4-130, the commissioner is authorized to authorize any person to fish for crabs or whelks with power-drawn nets of four-inch stretched mesh from any waters outside, on the seaward side, of the sounds at any time during the year, or from the waters of Cumberland, St. Simons, Sapelo, St. Andrew, Wassaw, and Ossabaw sounds during the months of January, February, and March, when the commissioner has determined that fishing for crabs or whelks within such waters will not be detrimental to the conservation of crabs or shrimp. Possession of any net with mesh smaller than that provided in this subsection while taking crabs or whelks shall be prima-facie evidence of the violation of this Code section.
(g) It shall be unlawful for any person fishing for shrimp for commercial purposes pursuant to this Code section to fail to have positioned on the bow or cabin of the boat taking such shrimp a board with a background color of daylight fluorescent orange and with such numerals and letters painted or affixed thereon as are specified by the department for the boat. The numerals and letters shall be at least 16 inches in height, black in color, of block character, and spaced so as to be readable from the air from left to right.
(h) Any determination to open or close the salt waters pursuant to this Code section shall be made in accordance with current, sound principles of wildlife research and management."

SECTION 12.

Said title is further amended by revising paragraph (2) of subsection (a) of Code Section 27-4-136, relating to maintenance of records by suppliers, as follows:

"(2) Each person required to maintain records pursuant to paragraph (1) of this subsection shall report such information to the department, whose address for the purpose of reporting shall be the Coastal Resource Division headquarters, at such times and in such manner as the board provides by rule or regulation."

SECTION 13.

Said title is further amended by repealing and reserving Code Section 27-4-139, relating to taking of shrimp for recreational purposes, lawful nets and use of shrimp, and penalty for violation.

SECTION 14.

Said title is further amended by revising Code Section 27-4-140, relating to penalties for using recreational food shrimp cast netting, as follows:

"27-4-140.

(a) Any enforcement officer or other law enforcement officer who discovers an illegal cast net being used on the waters of this state shall confiscate the net, which shall be forfeited.

(b) Any person convicted of using an illegal cast net to fish for shrimp from the waters of this state for commercial sale for food purposes shall be guilty of a misdemeanor.

(c) Any person convicted for the second or any subsequent time of using an illegal cast net shall, in addition to any other penalty imposed by law, forfeit the vessel on which the violation occurred and in addition all commercial fishing and boat licenses issued to such person shall be revoked in accordance with the provisions of Code Section 27-2-25.

(d) Any person convicted of illegally fishing for shrimp from the waters of this state for commercial sale for food purposes shall be guilty of a misdemeanor. Possession of a quantity of shrimp in excess of the noncommercial food shrimp possession limit allowed pursuant to Code Section 27-4-132.1 shall be prima-facie evidence of the intent of the person or persons so in possession to take shrimp for commercial purposes."

SECTION 15.

Said title is further amended by revising subsections (a) and (c) of Code Section 27-4-170, relating to sport bait shrimping, as follows:

"(a) Any provision of this title to the contrary notwithstanding, any person who has a recreational fishing license may use a power-drawn net in accordance with this Code section, such net not to be larger than a ten-foot net and to be constructed of mesh not smaller than one inch when stretched, for the purpose of fishing for shrimp to be used for live bait in this state, provided that the shrimp are not to be sold. In addition to the general provisions of this Code section, the Board of Natural Resources is authorized to promulgate rules and regulations establishing the gear and methods allowed for sport bait shrimping. It shall be unlawful to fish for shrimp to be so used at night. It shall also be unlawful to fish for shrimp pursuant to this Code section except in those rivers or creeks or portions thereof opened to such taking. The determination of whether to open or close a river or creek or portion thereof shall be made by the commissioner or his or her designee in accordance with current, sound principles of wildlife research and management as provided in Code Section 27-4-130. No person fishing for shrimp under this subsection shall possess more than two quarts of bait shrimp at any time, no more than one-half pint of which may be dead; but any such person may take a maximum of four quarts of bait shrimp during any

24 hour period. When two or more persons fishing for shrimp under this subsection occupy the same boat, at least one such person must have a recreational fishing license; and there may be no more than four quarts of bait shrimp on board the boat at any time, no more than one pint of which may be dead; but the persons occupying the boat may take a maximum of eight quarts of bait shrimp during any 24 hour period. Possessing or taking more than the limits prescribed in this subsection shall be unlawful. Possessing more than these limits shall be prima-facie evidence that the shrimp were taken for some purpose other than to be used as live bait."

"(c)(1) It shall be unlawful for any person fishing for bait shrimp for noncommercial purposes to use any cast net other than a bait shrimp cast net.

(2) The salt waters of the state shall be open to fishing for bait shrimp at any time of the year; provided, however, that when food shrimp season is closed, any person fishing for shrimp under this paragraph shall possess no more than two quarts of bait shrimp at any time, all of which may be dead; and provided, further, that any such person may take a maximum of four quarts of bait shrimp during any day. When two or more persons taking shrimp under this subsection occupy the same boat, there may be no more than four quarts of bait shrimp on board the boat at any time, all of which may be dead; and the persons occupying the boat may together take a maximum of eight quarts of bait shrimp during any day."

SECTION 16.

Said title is further amended by revising paragraphs (1) and (5) of subsection (a), subsection (l), and subsection (m) of Code Section 27-4-171, relating to bait dealers, as follows:

"(a)(1) It shall be unlawful for any person to fish for shrimp for live bait to be sold, to engage in the sale of shrimp for live bait, or to engage in the sale of shrimp for dead bait unless the person has a bait dealer license and possesses a valid personal commercial fishing license as provided in Code Section 27-2-23 or is an employee of a licensed bait dealer and possesses a valid personal commercial fishing license as provided in Code Section 27-2-23. No bait dealer license shall be issued to a person holding a commercial food shrimp cast netting license issued pursuant to Part 5 of this article. Any license issued pursuant to this Code section shall be invalid immediately upon the holder's obtaining such a commercial food shrimp cast netting license. No bait dealer license shall be issued for an individual whose establishment is located on any dock or other facility, including platforms, walkways, and buildings, which is one contiguous unit and where shrimp taken pursuant to Code Section 27-4-133 are processed, stored, or sold for retail purposes; provided, however, that such prohibition shall not apply to any person who was granted a bait dealer license for the period from April 1, 1993, through March 31, 1994, and whose bait dealer license was not revoked and provided, further, that such exemption shall terminate immediately if the person's current bait dealer license is revoked by the commissioner or if he or she is found guilty of a violation of the provisions of this Code section."

"(5) It shall be unlawful for any person fishing for shrimp for live bait pursuant to this Code section to:

(A) Use any power-drawn net which is larger than a 20 foot net or constructed of mesh smaller than one inch or greater than one and three-eighths inches when stretched;

(B) Fish for shrimp pursuant to this Code section at night. All salt waters of this state shall be closed to fishing for shrimp pursuant to this Code section, except those rivers or creeks or portions thereof opened to such taking. The determination of whether to open or close a river or creek or portion thereof shall be made by the commissioner or his or her designee in accordance with current, sound principles of wildlife research and management as provided by Code Section 27-4-130;

(C) Have on board the boat used for fishing for shrimp pursuant to this Code section more than 50 quarts of shrimp at any one time, no more than 10 percent of which may be dead;

(D) Fail to maintain on the commercial fishing boat bait-holding facilities which comply with the requirements set forth in subsection (b) of this Code section, except that it shall not be necessary for the boat to meet the requirements of paragraph (5) of subsection (b) of this Code section; or

(E) Hold a valid commercial food shrimp cast netting license issued pursuant to Part 5 of this article or to employ any person holding such a commercial food shrimp cast netting license."

"(l) It shall be unlawful for any person fishing for shrimp pursuant to this Code section to fail to have positioned on the bow or cabin of the boat being used for fishing for shrimp a board with a background color of daylight fluorescent orange with such numerals and letters painted or affixed thereon as are specified by the department for a particular established bait dealership. The numerals and letters shall be at least 16 inches in height and two inches in width or thickness, black in color, of block character, clearly legible, and spaced so as to be readable from the air from left to right. The numerals and letters required for compliance with this subsection shall be assigned by the department at the time the bait dealer licenses are issued pursuant to Code Section 27-2-23.

(m) It shall be unlawful for more than one boat to be in use for fishing for shrimp at any one time for an established bait dealer."

SECTION 17.

Said title is further amended by revising Code Section 27-4-205, relating to commercial shrimping license requirement, as follows:

"27-4-205.

It shall be unlawful for any person to fish for shrimp with a cast net from the waters of the state for commercial sale for food purposes or to sell for food purposes any shrimp he or she has taken with a cast net from the waters of the state unless he or she is in possession of a commercial food shrimp cast netting license as provided in this part. Such license

shall be required in addition to a commercial fishing boat license issued pursuant to Code Section 27-2-8."

SECTION 18.

Said title is further amended by revising subsection (c) of Code Section 27-4-206, relating to issuance of licenses, limits, and fees, as follows:

"(c) If the number of licenses issued pursuant to subsection (b) of this Code section does not total 200, the department may issue the remaining allotment of commercial food shrimp cast netting licenses in the initial or any subsequent license year by lottery devised and operated by the department. After such lottery has been conducted, any remaining unissued licenses may be issued via a method established by the department."

SECTION 19.

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

Approved May 14, 2007.

FOOD – MILK PRODUCTS; CREAM TESTERS; SOFT DRINKS; LICENSES; FEES.

No. 36 (House Bill No. 112).

AN ACT

To amend Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to standards, labeling, and adulteration of food, so as to eliminate certain license fees; to change certain provisions relating to applications for licenses and permits relative to milk products, duration of licenses, renewal of licenses, and procedure for denial, revocation, or suspension of licenses; to change certain provisions relating to license requirements for cream testers; to change certain provisions relating to licenses for manufacture, bottling, and distribution of soft drinks, fees, and separate licenses for each business or bottling or manufacturing plant; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to standards, labeling, and adulteration of food, is amended by revising Code Section 26-2-234, relating

to applications for licenses and permits relative to milk products, duration of licenses, renewal of licenses, and procedure for denial, revocation, or suspension of licenses, as follows:

"26-2-234.

Application for all licenses and permits provided for in this article shall be made to the Commissioner on such forms as he or she may prescribe. All licenses shall be valid for a period of one year unless revoked or suspended as provided in this article. All licenses shall be renewable upon submission of all required application forms. The Commissioner may deny, refuse, suspend, or revoke any license, after notice and a hearing, for any violation of or failure to comply with this article or the rules and regulations promulgated hereunder; provided, however, that the hearing shall be held in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'"

SECTION 2.

Said chapter is further amended by revising Code Section 26-2-235, relating to license requirements for cream testers, as follows:

"26-2-235.

No person shall act as a cream tester unless he or she is licensed, and it shall be unlawful for any person to employ as a cream tester any person who does not have a license to operate testing apparatus for milk and cream. The license shall be posted in a conspicuous place in plain view of all persons entering the room in which all testing is done."

SECTION 3.

Said chapter is further amended by revising Code Section 26-2-351, relating to licenses for manufacture, bottling, and distribution of soft drinks, fees, and separate licenses for each business or bottling or manufacturing plant, as follows:

"26-2-351.

(a) In addition to complying with the food laws of this state, no person shall manufacture or bottle any soft drink or soft drink syrup within this state unless he or she has a current food sales establishment license from the Commissioner.

(b) Each place of business or bottling or manufacturing plant shall be required to obtain a separate license."

SECTION 4.

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

Approved May 14, 2007.

WATERS OF THE STATE, PORTS, AND WATERCRAFT – PILOTS; REMOVAL AND STORAGE OF VESSELS; UNATTENDED VESSELS.

No. 37 (House Bill No. 132).

AN ACT

To amend Title 52 of the Official Code of Georgia Annotated, relating to state waters, ports, and watercraft, so as to revise provisions relating to state waters and navigability; to change the number of pilots for certain ports and waters; to change certain provisions relating to removal and storage of vessels and procedures therefor; to change certain provisions relating to authority of peace officers to cause removal of unattended vessels and duties relative thereto; to provide for certain administrative actions against owners of vessels that have been removed and not redeemed; to provide for certain administrative actions against owners of vessels that have been left unattended in public waters or on public property; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 52 of the Official Code of Georgia Annotated, relating to state waters, ports, and watercraft, is amended by revising Code Section 52-6-31, relating to numbers of pilots, as follows:

"52-6-31.

The number of licensed pilots shall not exceed 21 for the port of Savannah, three for the port of Doboy and Darien, eight for the port of Brunswick, two for the Great Satilla River, and two for the port of St. Marys."

SECTION 2.

Said title is further amended by revising Code Section 52-7-71, relating to removal and storage of vessels and procedures therefor, as follows:

"52-7-71.

(a) Any person who removes a vessel from public property or public water at the request of a law enforcement officer or stores such vessel shall, if the owner of the vessel is unknown, seek the identity of and address of the last known registered owner of such vessel from the law enforcement officer requesting removal of such vessel or such officer's agency within 72 hours of removal.

(b) Any person who removes a vessel from private property or private waters at the request of the property owner or stores such vessel shall, if the owner of the vessel is unknown,

notify in writing a local law enforcement agency of the location of the vessel, the vessel certificate of number, and the hull identification number, model, year, and make of the vessel, if known or if readily ascertainable, within 72 hours of the removal of such vessel and shall seek from the local law enforcement agency the identity and address of the last known registered owner of such vessel and any information indicating that such vessel is a stolen vessel.

(c) If any vessel removed under conditions set forth in subsection (a) or (b) of this Code section is determined to be a stolen vessel, the local law enforcement officer or agency shall notify the Georgia Crime Information Center and the owner, if known, of the location of such vessel within 72 hours after receiving notice that such vessel is a stolen vessel.

(d) If any vessel removed under conditions set forth in subsection (a) or (b) of this Code section is determined not to be a stolen vessel or is not a vessel being repaired by a repair facility or is not being stored by an insurance company providing insurance to cover damages to the vessel, the person removing or storing such vessel shall, within seven calendar days of the day such vessel was removed, notify the owner, if known, by certified or registered mail or statutory overnight delivery of the location of such vessel, the fees connected with removal and storage of such vessel, and the fact that such vessel will be deemed abandoned under this article unless the owner redeems such vessel within 30 days of the date such vessel was removed.

(e) If the person identified as the owner fails to redeem such vessel as described in subsection (d) of this Code section, or if a vessel being repaired by a repair facility or being stored by an insurance company providing insurance to cover damages to the vessel becomes abandoned, the person removing or storing such vessel shall, within seven calendar days of the day such vessel became an abandoned vessel, give notice in writing, by sworn statement, to the Department of Natural Resources and the Georgia Bureau of Investigation, stating the vessel certificate of number, the hull identification number, the fact that such vessel is an abandoned vessel, the model, year, and make of the vessel, if known or if readily ascertainable, the date the vessel became an abandoned vessel, the date the vessel was removed, and the present location of such vessel and requesting the name and address of all owners, lessors, lessees, security interest holders, and lienholders of such vessel. If a person removing or storing the vessel has knowledge of facts which reasonably indicate that the vessel is registered or titled in a certain other state, such person shall check the vessel records of that other state in the attempt to ascertain the identity of the owner of the vessel.

(e.1)(1)(A) Upon notice to the Department of Natural Resources as described in subsection (e) of this Code section, then the commissioner may revoke, suspend, deny, or refuse to renew any vessel certificate of number or commercial fishing boat license required by this title or Title 27 which is held by or has been applied for by the person, until all fees connected with removal and storage of the vessel have been paid and any lien acquired under Code Section 52-7-73 for such fees has been satisfied. The person shall be notified of the proposed order for revocation, suspension, denial, or nonrenewal

personally or by a letter sent by certified mail or statutory overnight delivery to the name and address indicated on the application for the certificate of number or license, or both. The proposed order for revocation, suspension, denial, or nonrenewal shall become final 30 days after issuance if not appealed as provided in this paragraph.

(B) Any person whose vessel certificate of number or commercial fishing boat license is proposed for revocation, suspension, denial, or nonrenewal under this paragraph shall have the right to enter an appeal in the superior court of the county of his or her residence or in the Superior Court of Fulton County. Such appeal shall name the commissioner as defendant and must be filed within 30 days from the date the notice of the proposed order was sent. The person filing the appeal shall neither be required to post any bond nor to pay the costs in advance. If the person so desires, the appeal may be heard by the judge at term or in chambers or by a jury at the first term. The hearing on the appeal shall be de novo, but no appeal shall act as a supersedeas of any orders or acts of the department.

(2)(A) Upon notice to the Department of Natural Resources as described in subsection (e) of this Code section and delivery of a copy of such notice to the state revenue commissioner, then the state revenue commissioner may revoke, suspend, deny, or refuse to renew any motor vehicle registration required by Title 40 which is held by or has been applied for by the person, until all fees connected with removal and storage of the vessel have been paid and any lien acquired under Code Section 52-7-73 for such fees has been satisfied. The person shall be notified of the proposed order for revocation, suspension, denial, or nonrenewal personally or by a letter sent by certified mail or statutory overnight delivery to the name and address indicated on the application for the registration. The proposed order for revocation, suspension, denial, or nonrenewal shall become final 30 days after issuance if not appealed as provided in this paragraph.

(B) Any person whose motor vehicle registration is proposed for revocation, suspension, denial, or nonrenewal under this paragraph shall have the right to enter an appeal in the superior court of the county of his or her residence or in the Superior Court of Fulton County. Such appeal shall name the state revenue commissioner as defendant and must be filed within 30 days from the date the notice of the proposed order was sent. The person filing the appeal shall neither be required to post any bond nor to pay the costs in advance. If the person so desires, the appeal may be heard by the judge at term or in chambers or by a jury at the first term. The hearing on the appeal shall be de novo, but no appeal shall act as a supersedeas of any orders or acts of the department.

(f) Upon ascertaining the owner of such vessel, the person removing or storing such vessel shall, within five calendar days, by certified or registered mail or statutory overnight delivery, notify the owner, lessors, lessees, security interest holders, and lienholders of the vessel of the location of such vessel and of the fact that such vessel is deemed abandoned and shall be disposed of if not redeemed.

(g) If the identity of the owner of such vessel cannot be ascertained, the person removing or storing such vessel shall place an advertisement in a newspaper of general circulation in the county where such vessel was obtained or, if there is no newspaper in such county, shall post such advertisement at the county courthouse in such place where other public notices are posted. Such advertisement shall run in the newspaper once a week for two consecutive weeks or shall remain posted at the courthouse for two consecutive weeks. The advertisement shall contain a complete description of the vessel, its certificate of number and hull identification number, the location from where such vessel was initially removed, the present location of such vessel, and the fact that such vessel is deemed abandoned and shall be disposed of if not redeemed.

(h) Information forwarded to the Georgia Bureau of Investigation as required by this Code section shall be placed by the bureau on the National Crime Information Center Network.

(i) Any person storing a vessel under the provisions of this Code section shall notify the Department of Natural Resources and the Georgia Bureau of Investigation if the vessel is recovered, is claimed by the owner, is determined to be stolen, or is for any reason no longer an abandoned vessel. Such notice shall be provided within seven calendar days of such event.

(j) If vessel information on the abandoned vessel is not in the files of the Department of Natural Resources, the department may require such other information or confirmation as it determines is necessary or appropriate to determine the identity of the vessel.

(k) Any person who does not provide the notice and information required by this Code section shall not be entitled to any storage fees.

(l) Any person who knowingly provides false or misleading information when providing any notice or information as required by this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor."

SECTION 3.

Said title is further amended by revising Code Section 52-7-72, relating to authority of peace officers to cause removal of unattended vessels and duties relative thereto, as follows:

"52-7-72.

(a) Any peace officer who finds a vessel which has been left unattended in or upon any public waters or other public property for a period of at least five days, if such peace officer reasonably believes that the person who left such vessel unattended does not intend to return and remove such vessel, shall notify the Department of Natural Resources of such finding in accordance with subsection (d) of this Code section and may cause such vessel to be removed to a garage or other place of safety.

(b) Any peace officer who finds a vessel which has been left unattended in or upon any public waters or other public property, when such vessel poses a threat to public health or safety, shall notify the Department of Natural Resources of such finding in accordance with subsection (d) of this Code section and may immediately cause such vessel to be removed to a garage or other place of safety.

(c) Any peace officer who, under the provisions of this Code section, causes any vessel to be removed to a garage or other place of safety shall be liable for gross negligence only.

(d)(1) Any peace officer who finds a vessel under such conditions as described in subsection (a) or (b) of this Code section shall within 72 hours from the time of such finding:

(A) Notify the Department of Natural Resources and the Georgia Crime Information Center of the description of the vessel, whether the vessel has been removed or not, and, if removed, the location to which such vessel has been removed; and

(B) If available on the Georgia Crime Information Center Network, determine the name and address of the last known registered owner of such vessel.

If vessel information is not in the files of the Department of Natural Resources, the department may require such other information or confirmation as it determines is necessary or appropriate to determine the identity of the vessel.

(2) If any such vessel is determined to be a stolen vessel, the local law enforcement officer or agency shall notify the Georgia Crime Information Center and the owner, if known, of the location of such vessel within 72 hours after receiving notice that such vessel is a stolen vessel.

(3) If the vessel is removed and the name and address of the last known registered owner of the vessel is obtained from the Georgia Crime Information Center, the peace officer who causes the vessel to be removed shall, within three calendar days of removal, make available to the person removing such vessel the name and address of the last known registered owner of such vessel. If such information is not available, the peace officer shall, within three calendar days of removal, notify the person removing or storing such vessel of such fact."

SECTION 4.

Said title is further amended by adding a new Code section to read as follows:

"52-7-72.1.

(a)(1) If any vessel for which the Department of Natural Resources and the Georgia Crime Information Center have received notice pursuant to subsection (d) of Code Section 52-7-72 has not been removed and is determined not to be a stolen vessel, the commissioner may proceed to take action against the owner as provided by this Code section.

(2) If any vessel for which the Department of Natural Resources and the Georgia Crime Information Center have received notice pursuant to subsection (d) of Code Section 52-7-72 has been removed, the provisions of this Code section shall not apply and the provisions of Code Section 52-7-71 shall apply instead.

(b)(1)(A) Upon notice to the Department of Natural Resources as described in subsection (d) of Code Section 52-7-72, then the commissioner may revoke, suspend, deny, or refuse to renew any vessel certificate of number or commercial fishing boat license required by this title or Title 27 which is held by or has been applied for by a

person who owns the vessel, until the owner restores and resumes operation of the vessel or removes it from public waters or public property. The person shall be notified of the proposed order for revocation, suspension, denial, or nonrenewal personally or by a letter sent by certified mail or statutory overnight delivery to the name and address indicated on the application for the certificate of number or license, or both. The proposed order for revocation, suspension, denial, or nonrenewal shall become final 30 days after issuance if not appealed as provided in this paragraph.

(B) Any person whose vessel certificate of number or commercial fishing boat license is proposed for revocation, suspension, denial, or nonrenewal under this paragraph shall have the right to enter an appeal in the superior court of the county of his or her residence or in the Superior Court of Fulton County. Such appeal shall name the commissioner as defendant and must be filed within 30 days from the date the notice of the proposed order was sent. The person filing the appeal shall neither be required to post any bond nor to pay the costs in advance. If the person so desires, the appeal may be heard by the judge at term or in chambers or by a jury at the first term. The hearing on the appeal shall be de novo, but no appeal shall act as a supersedeas of any orders or acts of the department.

(2)(A) Upon notice to the Department of Natural Resources as described in subsection (d) of Code Section 52-7-72 and delivery of a copy of such notice to the state revenue commissioner, then the state revenue commissioner may revoke, suspend, deny, or refuse to renew any motor vehicle registration required by Title 40 which is held by or has been applied for by a person who owns the vessel, until the owner restores and resumes operation of the vessel or removes it from public waters or public property. The person shall be notified of the proposed order for revocation, suspension, denial, or nonrenewal personally or by a letter sent by certified mail or statutory overnight delivery to the name and address indicated on the application for the registration. The proposed order for revocation, suspension, denial, or nonrenewal shall become final 30 days after issuance if not appealed as provided in this paragraph.

(B) Any person whose motor vehicle registration is proposed for revocation, suspension, denial, or nonrenewal under this paragraph shall have the right to enter an appeal in the superior court of the county of his or her residence or in the Superior Court of Fulton County. Such appeal shall name the state revenue commissioner as defendant and must be filed within 30 days from the date the notice of the proposed order was sent. The person filing the appeal shall neither be required to post any bond nor to pay the costs in advance. If the person so desires, the appeal may be heard by the judge at term or in chambers or by a jury at the first term. The hearing on the appeal shall be de novo, but no appeal shall act as a supersedeas of any orders or acts of the department."

SECTION 5.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 6.

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

Approved May 14, 2007.

REVENUE – PROHIBIT TAX COMMISSIONERS AND EMPLOYEES FROM PURCHASING TAX EXECUTION PROPERTY.

No. 40 (House Bill No. 222).

AN ACT

To amend Article 2 of Chapter 4 of Title 48 of the Official Code of Georgia Annotated, relating to the authority of counties to buy property sold under tax executions, so as to prohibit county tax commissioners and certain employees from purchasing property offered for sale under tax executions or tax foreclosure proceedings; to provide for criminal penalties; to provide for status of certain sales, transfers, or acquisitions; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 4 of Title 48 of the Official Code of Georgia Annotated, relating to the authority of counties to buy property sold under tax executions, is amended by adding a new Code section to read as follows:

"48-4-23.

(a) A tax commissioner and any person employed in the office of the tax commissioner working on behalf of the tax commissioner shall not, directly or indirectly, acquire an interest in, buy, or profit from any real property sold at public auction by the county for which such tax commissioner or employee thereof serves for delinquent taxes, except that such tax commissioner or employee thereof may purchase property sold at public auction for delinquent taxes if such tax commissioner or employee has any ownership interest in the property and had an ownership interest in the property at the time the taxes became delinquent.

(b) Any person who violates subsection (a) of this Code section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by imprisonment for a period of not more than one year, by a fine not to exceed $1,000.00, or both.
(c) Any sale, transfer, or acquisition of interest in any real property in violation of this Code section shall be void."

SECTION 2.

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

Approved May 14, 2007.

EDUCATION – REVENUE – GEORGIA HIGHER EDUCATION SAVINGS PLAN; TRUST ACCOUNTS; TAX DEDUCTION FOR CONTRIBUTIONS.

No. 41 (House Bill No. 225).

AN ACT

To amend Titles 20 and 48 of the Official Code of Georgia Annotated, relating, respectively, to education and revenue and taxation, so as to change certain provisions regarding the Georgia Higher Education Savings Plan; to change certain provisions regarding savings trust accounts; to change certain provisions regarding the state income tax deduction for contributions to certain college savings plans; to provide an effective date; to provide applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in subsection (b) of Code Section 20-3-634, relating to savings trust accounts, by revising paragraph (3) as follows:

"(3) Provisions for withdrawals, refunds, rollovers, transfers, and any penalties. An account owner may roll over all or part of any balance in an account to an account established on behalf of a different beneficiary to the extent allowed by Section 529 of the Internal Revenue Code. Unqualified withdrawals of contributions and earnings shall be subject to such penalties or taxation as may be imposed by the Internal Revenue Code. At its discretion, the board may impose additional penalties on unqualified withdrawals to be

used by the plan to defray expenses; provided, however, that no such penalty shall apply to any withdrawal that does not require a penalty or tax surcharge under the Internal Revenue Code of 1986;"

SECTION 2.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended in subsection (a) of Code Section 48-7-27, relating to computation of taxable net income for state income tax purposes, by revising paragraph (11) and by adding a new paragraph to read as follows:

"(11)(A) For taxable years beginning on or after January 1, 2002, and prior to January 1, 2007, an amount equal to the amount of contributions by parents or guardians of a designated beneficiary to a savings trust account established pursuant to Article 11 of Chapter 3 of Title 20 on behalf of the designated beneficiary who is claimed as a dependent on the Georgia income tax return of the beneficiary's parents or guardians, but not exceeding $2,000.00 per beneficiary.

(B) If the parents or guardians file joint returns, separate returns, or single returns, the sum of contributions constituting deductions on their returns under this paragraph shall not exceed $2,000.00 per beneficiary.

(C) In order to claim the deduction for a taxable year:

(i) Such parent or guardian must have claimed and been allowed itemized deductions pursuant to Section 63(d) of the Internal Revenue Code of 1986 and paragraph (1) of this subsection;

(ii) The federal adjusted gross income for such taxable year cannot exceed $100,000.00 for a joint return or $50,000.00 for a separate or single return except as provided in subparagraph (D) of this paragraph; and

(iii) Such parent or guardian must be the account owner of the designated beneficiary's account.

(D) The maximum deduction authorized by this paragraph for each beneficiary shall decrease by $400.00 for each $1,000.00 of federal adjusted gross income over $100,000.00 for a joint return or $50,000.00 for a separate or single return.

(E) For purposes of this paragraph, contributions or payments for any such taxable year may be made during or after such taxable year but on or before the deadline for making contributions to an individual retirement account pursuant to Section 219(f)(3) of the Internal Revenue Code of 1986;

(11.1)(A) For taxable years beginning on or after January 1, 2007, an amount equal to the amount of contributions to a savings trust account established pursuant to Article 11 of Chapter 3 of Title 20 on behalf of the designated beneficiary, but not exceeding $2,000.00 per beneficiary.

(B) If the contributor files a joint return, separate return, or single return, the sum of contributions constituting deductions on the contributor's returns under this paragraph shall not exceed $2,000.00 per return.

(C) For purposes of this paragraph, contributions or payments for any such taxable year may be made during or after such taxable year but on or before the deadline for making contributions to an individual retirement account under federal law for such taxable year;"

SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 4.

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

Approved May 14, 2007.

LAW ENFORCEMENT – GEORGIA STATE PRISON; WARDEN'S MOTOR VEHICLE; REPEAL PROVISIONS.

No. 42 (House Bill No. 245).

AN ACT

To amend Chapter 1 of Title 35 of the Official Code of Georgia Annotated, relating to general provisions relative to law enforcement officers and agencies, so as to repeal certain provisions relating to a passenger motor vehicle for the warden of Georgia State Prison to be furnished by the Department of Public Safety; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 1 of Title 35 of the Official Code of Georgia Annotated, relating to general provisions relative to law enforcement officers and agencies, is amended by striking and reserving Code Section 35-1-2, relating to a passenger motor vehicle for the warden of Georgia State Prison to be furnished by the Department of Public Safety.

SECTION 2.

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

Approved May 14, 2007.

RETIREMENT – FOREIGN CORPORATIONS; INVESTMENT IN PUBLIC RETIREMENT SYSTEMS; REAL ESTATE TRUSTS.

No. 43 (House Bill No. 318).

AN ACT

To amend Article 7 of Chapter 20 of Title 47 of the Official Code of Georgia Annotated, the "Public Retirement Systems Investment Authority Law," so as to provide that certain foreign corporations shall be deemed to be United States corporations for purposes of investment by public retirement systems; to allow the investment of public retirement system assets in certain real estate trusts; to increase the percentage of the assets of certain public retirement systems that may be invested in foreign corporations; to provide that certain public retirement systems may enter into certain contracts, agreements, and other obligations; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 7 of Chapter 20 of Title 47 of the Official Code of Georgia Annotated, the "Public Retirement Systems Investment Authority Law," is amended by revising paragraph (1) of subsection (a) of Code Section 47-20-83, relating to certificated or uncertificated forms of investment and real estate investments, as follows:

"(1) Corporations or obligations of corporations organized under the laws of this state or any other state or under the laws of Canada, but only if the corporation has a market capitalization equivalent to $100 million; provided, however, that except as provided in Code Section 47-20-84, no fund shall invest in corporations or in obligations of corporations organized in a country other than the United States or Canada; provided, further, that such obligation shall be listed as investment grade by a nationally recognized rating agency. For purposes of this paragraph, a corporation organized under the laws of a country other than the United States or Canada shall be deemed to be organized under the laws of this state or another state unless it is a private foreign issuer within the meaning of United States Securities and Exchange Commission Rule 3b-4, 17 C.F.R.

Section 240.3b-4, as such appears on July 1, 2007; this will not include any investment with any corporation that is included in the terrorism sanctions issued by the Office of Foreign Assets Control of the United States Department of the Treasury pursuant to Executive Order 13224 signed by the President of the United States on September 23, 2001."

SECTION 2.

Said article is further amended in subsection (a) of said Code Section 47-20-83, by striking "and" at the end of paragraph (20), by replacing the period with "; and" at the end of paragraph (21), and by adding a new paragraph to read as follows:

"(22) Business entities organized under the laws of this state or any other state or under the laws of Canada, but only if the business entity has a minimum market capitalization equivalent to $100 million and if the business entity has elected to be taxed and continues to qualify as a real estate investment trust under Section 856 through Section 860 of the federal Internal Revenue Code, 26 U.S.C. Section 856 through Section 860; provided, however, that except as provided in Code Section 47-20-84, no fund shall invest in business entities organized in a country other than the United States or Canada."

SECTION 3.

Said article is further amended by revising subsection (b) of Code Section 47-20-84, relating to large retirement systems, as follows:

"(b) A large retirement system may not invest more than 15 percent of the retirement system assets in corporations or in obligations of corporations organized in a country other than the United States or Canada subject to the provisions of paragraph (1) of subsection (a) of Code Section 47-20-83."

SECTION 4.

Said article is further amended in said Code Section 47-20-84, by adding a new subsection to read as follows:

"(f) A large retirement system may enter into contracts, agreements, and other instruments designed to manage risk exposure."

SECTION 5.

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

Approved May 14, 2007.

MOTOR VEHICLES – LICENSE SUSPENSIONS; COMMERCIAL DRIVERS' LICENSES; DRIVER SERVICES INVESTIGATORS.

No. 44 (House Bill No. 419).

AN ACT

To amend Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, so as to provide that suspensions by operation of law run consecutively to any other suspension imposed by the department; to provide for definitions of certain terms; to change provisions relating to issuance of commercial drivers' licenses and permits; to provide for expiration of commercial drivers' licenses; to provide for disqualifications, revocations, and suspensions of commercial drivers' licenses; to provide penalties for violations; to amend Code Section 40-16-4 of the Official Code of Georgia Annotated, relating to duties of the commissioner of driver services, so as to give the commissioner the power to hire investigators; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, is amended by revising Code Section 40-5-75, relating to suspension of licenses by operation of law, by adding a new subsection (i) as follows:

"(i) Notwithstanding any other provision of this chapter to the contrary, the suspension imposed pursuant to this Code section shall be in addition to and run consecutively to any other suspension imposed by the department at the time of the conviction that results in said suspension. If the person has never been issued a driver's license, the person shall not be eligible for a driver's license for the applicable period of suspension following his or her submission of an application for issuance thereof."

SECTION 2.

Said chapter is further amended by revising Code Section 40-5-142, relating to definitions of terms, as follows:

"40-5-142.

As used in this article, the term:

(1) 'Alcohol' means:

(A) Beer, ale, port, or stout and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of 1 percent or more

of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(B) Wine of not less than one-half of 1 percent of alcohol by volume;

(C) Distilled spirits which means that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced; or

(D) Any substance containing any form of alcohol, including, but not limited to, ethanol, methanol, propanol, and isopropanol.

(2) 'Alcohol concentration' means:

(A) The number of grams of alcohol per 100 milliliters of blood;

(B) The number of grams of alcohol per 210 liters of breath; or

(C) The number of grams of alcohol per 67 milliliters of urine.

(3) 'Commerce' means:

(A) Trade, traffic, and transportation within the jurisdiction of the United States between locations in a state and between a location in a state and a location outside such state including a location outside the United States; and

(B) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in subparagraph (A) of this paragraph.

(4) 'Commercial Driver License Information System' (CDLIS) means the information system established pursuant to the Commercial Motor Vehicle Safety Act of 1986, Title XII, Public Law 99-570, to serve as a clearing-house for locating information related to the licensing and identification of commercial motor vehicle drivers.

(5) 'Commercial driver's instruction permit' means a permit issued pursuant to subsection (c) of Code Section 40-5-147.

(6) 'Commercial driver's license' (CDL) means a license issued in accordance with the requirements of this article to an individual which authorizes the individual to drive a class of commercial motor vehicle.

(7) 'Commercial motor vehicle' means a motor vehicle designed or used to transport passengers or property:

(A) If the vehicle has a gross vehicle weight rating of 26,001 or more pounds or such lesser rating as determined by federal regulation;

(B) If the vehicle is designed to transport 16 or more passengers, including the driver; or

(C) If the vehicle is transporting hazardous materials as designated under 49 U.S.C. Section 5103 and is required to be placarded in accordance with the Motor Carrier Safety Rules prescribed by the United States Department of Transportation, Title 49 C.F.R. Part 172, subpart F or is transporting any quantity of a material listed as a select agent or toxin in Title 42 C.F.R. Part 73;

provided, however, that for the purposes of this article, no agricultural vehicle, commercial vehicle operated by military personnel for military purposes, recreational vehicle, or fire-fighting or emergency equipment vehicle shall be considered a

commercial vehicle. As used in this paragraph, the term 'fire-fighting or emergency equipment vehicle' means an authorized emergency vehicle as defined in paragraph (5) of Code Section 40-1-1; provided, however, that the vehicle must be equipped with audible and visible signals and shall be subject to traffic regulations in accordance with the requirements of Code Section 40-6-6. As used in this paragraph, the term 'agricultural vehicle' means a farm vehicle which is controlled and operated by a farmer, including operation by employees or family members; used to transport agricultural products, farm machinery, or farm supplies to or from a farm; and operated within 150 miles of such person's farm; which vehicle is not used in the operations of a common or contract carrier. Any other waiver by the Federal Motor Carrier Safety Administration pursuant to Federal Law 49 C.F.R. Parts 383 and 384 of the United States Department of Transportation shall supersede state law in authorizing the Department of Driver Services to exempt said classes.

(8) 'Controlled substance' means any substance so defined under Code Section 16-13-21 and includes all substances listed in Schedules I through V of 21 C.F.R. Part 1308, as they may be revised from time to time.

(9) 'Conviction' means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(10) 'Disqualification' means any of the following:

(A) The suspension, revocation, or cancellation of a commercial driver's license by any state or jurisdiction of issuance;

(B) The withdrawal of a person's privilege to drive a commercial motor vehicle by any state or by any other jurisdiction as the result of a violation of any state or local law relating to motor vehicle traffic control, other than parking, vehicle weight, or vehicle defect violations; or

(C) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle.

(11) 'Drive' means to operate or be in actual physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of Code Sections 40-5-151 and 40-5-152, 'drive' includes operation or actual physical control of a motor vehicle anywhere in this state, in any other state, or in any foreign jurisdiction.

(12) 'Driver' means any person who drives, operates, or is in actual physical control of a commercial motor vehicle in any place open to the general public for purposes of vehicular traffic or who is required to hold a commercial driver's license.

(13) 'Driver's license' means a license issued by a state to any individual which authorizes the individual to drive a motor vehicle.

(13.1) 'Driving a vehicle under the influence' means committing any one or more of the following acts while a person is driving or in actual physical control of a moving commercial or noncommercial vehicle:

(A) Driving under the influence, as prescribed by Code Section 40-6-391 or any law or ordinance equivalent thereto in this state, in any other state, or in any foreign jurisdiction; or

(B) Refusal to submit to state-administered chemical testing when requested to do so by a law enforcement officer.

(14) 'Employer' means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle on its behalf.

(14.1) 'Fatality' means the death of a person as a result of a motor vehicle crash.

(15) 'Felony' means any offense under state or federal law that is punishable by death, by imprisonment for life, or by imprisonment for more than 12 months.

(16) 'Foreign jurisdiction' means any jurisdiction other than a state of the United States.

(17) 'Gross vehicle weight rating' (GVWR) means the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single or a combination (articulated) vehicle, or registered gross weight, whichever is greater. The gross vehicle weight rating of a combination (articulated) vehicle, commonly referred to as the 'gross combination weight rating' (GCWR), is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of the towed unit or units. In the absence of a value specified for the towed unit or units by the manufacturer or manufacturers, the gross vehicle weight rating of a combination (articulated) vehicle is the gross vehicle weight rating of the power unit plus the total weight of the towed unit or units, including the loads on them.

(18) 'Hazardous materials' means any material that has been designated as hazardous under 49 U.S.C. Section 5103 and is required to be placarded in accordance with the Motor Carrier Safety Rules prescribed by the United States Department of Transportation, Title 49 C.F.R. Part 172, subpart F or any quantity of a material listed as a select agent or toxin in Title 42 C.F.R. Part 73.

(18.1) 'Imminent hazard' means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.

(18.2) 'Major traffic violation' means a conviction of any of the following offenses or a conviction of any law or ordinance equivalent thereto in this state, in any other state, or in any foreign jurisdiction, when operating either a commercial motor vehicle or, unless otherwise specified, a noncommercial motor vehicle:

(A) Driving a vehicle under the influence in violation of Code Section 40-6-391;

(B) Hit and run or leaving the scene of an accident in violation of Code Section 40-6-270, failure to report striking an unattended vehicle in violation of Code Section 40-6-271, failure to report striking a fixed object in violation of Code Section 40-6-272, or failure to report an accident in violation of Code Section 40-6-273;

(C) Except as provided in subsection (b) of Code Section 40-5-151, any felony in the commission of which a motor vehicle is used;

(D) Driving a commercial motor vehicle while the person's commercial driver's license or commercial driving privilege is revoked, suspended, canceled, or disqualified;

(E) Homicide by vehicle in violation of Code Section 40-6-393;

(F) Racing on highways or streets in violation of Code Section 40-6-186;

(G) Using a motor vehicle in fleeing or attempting to elude an officer in violation of Code Section 40-6-395;

(H) Fraudulent or fictitious use of or application for a license as provided in Code Section 40-5-120 or 40-5-125;

(I) Operating a motor vehicle with a revoked, canceled, or suspended registration in violation of Code Section 40-6-15;

(J) Violating Code Sections 16-8-2 through 16-8-9, if the property that was the subject of the theft was a vehicle engaged in commercial transportation of cargo or any appurtenance thereto or the cargo being transported therein or thereon, as set forth in paragraph (8) of subsection (a) of Code Section 16-8-12; or

(K) Refusing to submit to a state administered chemical test requested by a law enforcement officer pursuant to Code Section 40-5-55.

(19) 'Motor vehicle' means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include any vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(19.1) 'Noncommercial motor vehicle' means a motor vehicle or combination of vehicles not defined by the term 'commercial motor vehicle' in this Code section or in the regulations of the department for the purpose of licensure.

(20) 'Nonresident commercial driver's license' means a commercial driver's license issued by a state to any individual who resides in a foreign jurisdiction.

(21) ' Out-of-service order' means a temporary prohibition against driving a commercial motor vehicle.

(21.1) 'School bus' means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students from home to school, from school to home, or to and from school sponsored events. The term does not include a bus used as a common carrier.

(22) 'Serious traffic violation' means conviction of any of the following offenses or a conviction of any law or ordinance equivalent thereto in this state, in any other state, or

in any foreign jurisdiction, when operating either a commercial motor vehicle or, unless otherwise specified, a noncommercial motor vehicle:

(A) Speeding 15 or more miles per hour above the posted speed limit;

(B) Reckless driving;

(C) Following another vehicle too closely;

(D) Improper or erratic lane change, including failure to signal a lane change;

(E) A violation, arising in connection with a fatal crash, of state law or a local ordinance, relating to motor vehicle traffic control, excluding parking, weight, length, height, and vehicle defect violations, and excluding homicide by vehicle as defined in Code Section 40-6-393;

(F) A railroad grade crossing violation in a noncommercial motor vehicle;

(G) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(H) Driving a commercial motor vehicle without a commercial driver's license in the driver's immediate possession, and excluding such violations when the person's commercial driver's license or commercial driving privilege is suspended, revoked, canceled, or disqualified; or

(I) Driving a commercial motor vehicle without a commercial driver's license of the proper class and endorsements for the specific vehicle being operated or for the passengers or type of cargo transported.

(23) 'State' means a state of the United States and the District of Columbia.

(24) 'Tank vehicle' means any commercial motor vehicle designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks as defined by federal law. However, the term 'tank vehicle' shall not include a portable tank having a rated capacity under 1,000 gallons.

(25) 'United States' means the 50 states and the District of Columbia."

SECTION 3.

Said chapter is further amended by revising paragraph (1) of subsection (a) and adding a new subsection (e) of Code Section 40-5-147, relating to the requirements for issuing a commercial driver's license or instruction permit, as follows:

"(a)(1) Except as provided in Code Section 40-5-148, no person may be issued a commercial driver's license unless that person is a resident of this state, is at least 18 years of age, has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulations enumerated in 49 C.F.R. Part 383, subparts G and H,, and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986, Title XII of Public Law 99-570, in addition to any other requirements imposed by state law or federal regulation. The tests shall be prescribed and conducted by the department in English only."

"(e) The department is authorized to promulgate rules necessary to grant a waiver or exemption of the physical requirements for a commercial driver's license or a commercial driver's instruction permit in 49 C.F.R. Part 391, Subpart E; provided, however, that the person who is applying for a commercial driver's license or a commercial driver's instruction permit or who has previously been issued a commercial driver's license and who is granted the waiver or exemption shall only be authorized to drive a commercial motor vehicle in this state. Notwithstanding this subsection, the department shall not grant any type of waiver or exemption of said physical requirements unless such type of waiver or exemption has previously been granted by the Federal Motor Carrier Safety Administration."

SECTION 4.

Said chapter is further amended by revising subsections (g) and (h) of Code Section 40-5-150, relating to commercial driver's licenses, as follows:

"(g) Except as provided for in Code Section 40-5-21.1, the commercial driver's license shall expire on the licensee's birthdate in the fifth year following the issuance of such license.

(h) When applying for renewal of a commercial driver's license, the applicant shall complete the application form required by subsection (a) of Code Section 40-5-149, providing updated information and required medical certifications. If the applicant wishes to retain a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed."

SECTION 5.

Said chapter is further amended by revising Code Section 40-5-151, relating to disqualifications from commercial driving, as follows:

"40-5-151.

(a) Any person is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of a major traffic violation as defined in paragraph (18.2) of Code Section 40-5-142.

(b) Any person is disqualified from driving a commercial motor vehicle for a period of three years if convicted of a first violation of using a commercial motor vehicle in the commission of a felony or a major traffic violation as defined in paragraph (18.2) of Code Section 40-5-142, provided that the vehicle being operated or used in connection with such violation or commission of such felony is transporting a hazardous material required to be placarded under Section 105 of the Hazardous Material Transportation Act.

(c) Any person is disqualified from driving a commercial motor vehicle for life if convicted of a second or subsequent major traffic violation as defined in paragraph (18.2) of Code Section 40-5-142 or any combination of such violations arising from two or more separate incidents.

(d) The department may issue regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (c) of this Code section may be reduced to a period of not less than ten years. The department is not authorized to make any other reduction in a term of disqualification or to issue a limited or other permit or license that would allow the operation of a commercial motor vehicle during the term of disqualification mandated by this Code section.

(e) Notwithstanding the provisions of subsection (d) of this Code section, any person is disqualified from driving a commercial motor vehicle for life who knowingly uses a motor vehicle in the commission of any felony involving the manufacture, distribution, cultivation, sale, transfer of, trafficking in, or dispensing of a controlled substance or marijuana, or possession with intent to manufacture, distribute, cultivate, sell, transfer, traffic in, or dispense a controlled substance or marijuana.

(f) Any person is disqualified from driving a commercial motor vehicle for a period of:

(1) Not less than 60 days if convicted of two serious traffic violations as defined in paragraph (22) of Code Section 40-5-142 arising from separate incidents occurring within a three-year period as measured from the dates of arrests for which convictions were obtained; or

(2) Not less than 120 days if convicted of a third or subsequent serious traffic violation as defined in paragraph (22) of Code Section 40-5-142 arising from separate incidents occurring within a three-year period as measured from the dates of arrests for which convictions were obtained.

(g)(1) Any person is disqualified from driving a commercial motor vehicle based on the following violations of out-of-service orders:

(A) First violation — a driver who is convicted of a first violation of an out-of-service order is disqualified for a period of not less than 90 days and not more than one year;

(B) Second violation — a driver who is convicted of two violations of out-of-service orders in separate incidents is disqualified for a period of not less than one year and not more than five years; and

(C) Third or subsequent violation — a driver who is convicted of three or more violations of out-of-service orders in separate incidents is disqualified for a period of not less than three years and not more than five years.

(2) Whenever the operator of a commercial motor vehicle is issued an out-of-service order, a copy of such order shall be issued to the operator of the commercial motor vehicle, the operator of the commercial motor vehicle's employer, and a copy or notice of such out-of-service order shall be provided to the department. The form of such out-of-service order, the procedures for notifying the department upon the issuance of such an order, and other matters relative to the issuance of out-of-service orders and violations thereof shall be provided in rules and regulations promulgated by the commissioner.

(3) Any person is disqualified for a period of not less than 180 days nor more than two years if the driver is convicted of a first violation of an out-of-service order while

transporting hazardous materials required to be placarded under Section 105 of the Hazardous Materials Transportation Act, or while operating commercial motor vehicles designed to transport more than 15 passengers, including the driver. A driver is disqualified for a period of not less than three years nor more than five years if, during any ten-year period, the driver is convicted of any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under Section 105 of the Hazardous Materials Transportation Act, or while operating commercial motor vehicles designed to transport more than 15 passengers, including the driver.

(4) In addition to any other penalty imposed pursuant to this article, any driver who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than $1,100.00 and not to exceed $2,750.00.

(h) After suspending, revoking, or canceling a commercial driver's license, the department shall update its records to reflect that action within ten days. After suspending, revoking, or canceling a nonresident commercial driver's privileges, the department shall notify the licensing authority of the state which issued the commercial driver's license within ten days.

(i) Any person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if it is determined, in a check of an applicant's license status and record prior to issuing a commercial driver's license or at any time after the commercial driver's license is issued, that the applicant has falsified information on his or her application or any related filing.

(j)(1) Any person is disqualified from driving a commercial vehicle for a period of not less than 30 days if the department receives notification from the Federal Motor Carrier Safety Administration that the person poses an imminent hazard.

(2) If the Federal Motor Carrier Safety Administration notifies the department that a person's driving constitutes an imminent hazard and imposes a disqualification greater than 30 days, the person shall be disqualified from driving a commercial vehicle for the period designated by the Federal Motor Carrier Safety Administration, not to exceed one year.

(k)(1) Any person is disqualified from operating a commercial motor vehicle if convicted of any of the following railroad grade crossing offenses while operating a commercial motor vehicle:

(A) Failing to slow down and check the tracks are clear of an approaching train before proceeding;

(B) Failing to stop before reaching the crossing if the tracks are not clear;

(C) Failing to stop before driving onto the crossing;

(D) Failing to leave sufficient space to drive completely through a railroad crossing without stopping;

(E) Failing to obey a traffic-control device or the directions of an enforcement official at a railroad crossing; or

(F) Failing to negotiate a crossing because of insufficient undercarriage clearance.

(2)(A) Upon a first conviction for an offense listed in paragraph (1) of this subsection, the period of disqualification shall be 60 days.

(B) Upon a second conviction within a three-year period for an offense listed in paragraph (1) of this subsection arising from a separate incident within a three-year period, the period of disqualification shall be 120 days.

(C) Upon a third or subsequent conviction within a three-year period for an offense listed in paragraph (1) of this subsection arising from a separate incident, the period of disqualification shall be one year.

(l)(1) All disqualifications as provided for in subsection (f) of this Code section shall become effective upon the date that the department processes the citation or conviction, provided that no such disqualification is in effect; if such disqualification is in effect the subsequent disqualification shall not take effect until the current disqualification expires.

(2) Notwithstanding paragraph (1) of this subsection, any other disqualification as provided for in this Code section shall become effective upon the date that the department processes the citation or conviction and may run concurrently to any other disqualifications in effect.

(m) All disqualifications provided for in this Code section shall be imposed based on offenses in state law or on offenses of any laws or ordinances equivalent thereto in this state, in any other state, or in any foreign jurisdiction."

SECTION 6.

Said chapter is further amended by revising Code Section 40-5-159, relating to the suspension of commercial driver's licenses and driving privileges, as follows:

"40-5-159.

(a) Any person who drives a commercial motor vehicle while in violation of the provisions of Code Section 40-5-143 or any employer who knowingly allows, requires, permits, or authorizes a driver to drive a commercial motor vehicle in violation of the provisions of subsection (b) of Code Section 40-5-145 shall be guilty of a felony and, upon conviction thereof, shall be punished as follows:

(1) Except as provided for in subsections (d) and (e) of this Code section, by a civil penalty of $2,500.00 for each offense; and

(2) By a fine of $5,000.00, imprisonment for not more than 90 days, or both, for each offense.

(b) Any employer who reports fraudulent information to the department regarding an employee's employment or experience as required under 49 C.F.R. Part 383 shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500.00.

(c) Any person who drives a commercial motor vehicle while in violation of the provisions mandated under Code Section 40-5-146 shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500.00.

(d) Any employer who knowingly allows, requires, permits, or authorizes a driver to drive a commercial motor vehicle in violation of any federal, state, or local law or regulation pertaining to an out-of-service order shall be subject to a civil penalty in an amount not less than $2,750.00 and not to exceed $11,000.00.

(e) Any employer who knowingly allows, requires, permits, or authorizes a driver to drive a commercial motor vehicle in violation of any federal, state, or local law or regulation pertaining to railroad grade crossings shall be subject to a civil penalty not to exceed $10,000.00."

SECTION 7.

Code Section 40-16-4 of the Official Code of Georgia Annotated, relating to duties of the commissioner of driver services, is amended by revising subsection (e) in its entirety as follows:

"(e)(1) The commissioner shall have the authority to appoint and employ 30 investigators who shall be certified peace officers pursuant to the provisions of Chapter 8 of Title 35, the 'Georgia Peace Officer Standards and Training Act.'

(2) The investigators of the department shall have jurisdiction throughout this state with such duties and powers as are prescribed by law."

SECTION 8.

This Act shall become effective on January 1, 2008.

SECTION 9.

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

Approved May 14, 2007.

CONSERVATION – HEALTH – LAND DISTURBING ACTIVITY; SOIL EROSION AND SEDIMENTATION CONTROL; SEPTIC TANKS.

No. 45 (House Bill No. 463).

AN ACT

To amend Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural resources, so as to change certain provisions relating to the Environmental Protection Division of the Department of Natural Resources, the Environmental Advisory Council,

duties of the council and its members and the director, procedure for aggrieved persons, and inspections; to change certain provisions relating to certification of locality as local issuing authority, periodic review, procedure for revoking certification, and enforcement actions relative to control of soil erosion and sedimentation; to change certain provisions relating to education and training requirements relative to soil erosion and sedimentation control requirements, required programs, instructor qualifications, and expiration of certification; to provide for regulation and permitting of land disposal sites that receive septic tank waste and rules and regulations relating thereto; to change certain provisions relating to permits from the Department of Natural Resources for land disposal sites that receive septic tank waste and rules and regulations relating thereto; to amend Chapter 2 of Title 31 of the Official Code of Georgia Annotated, relating to the Department of Human Resources, so as to change certain provisions relating to permits from the Department of Human Resources for land disposal sites that receive septic tank waste and rules and regulations relating thereto; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural resources, is amended in Code Section 12-2-2, relating to the Environmental Protection Division, Environmental Advisory Council, duties of the council and its members and the director, procedure for aggrieved persons, and inspections, by revising subparagraph (c)(1)(A) as follows:

"(c)(1)(A) The director shall issue all orders and shall grant, deny, revoke, or amend all permits or variances provided for in the laws to be enforced by the division. The director shall also issue any certification which is required by any law of this state or the United States to be issued by the director, the Department of Natural Resources, or the State of Georgia relating to pollution control facilities or matters. The director shall notify all permit or variance applicants within ten days of receipt of the application as to the completeness of the application and, if the director finds the same to be incomplete, what specific additional materials the applicant need submit to make the application complete. The director shall notify applicants within ten days of receipt of a completed application as to the name and address of the person assigned to perform the review and the date, time, and location of the application review. The director shall grant or deny any permit or variance within 90 days after receipt of all required application materials by the division, provided that the director may for any application order not more than one extension of time of not more than 60 days within which to grant or deny the permit or variance."

SECTION 2.

Said title is further amended by revising Code Section 12-7-8, relating to certification of locality as local issuing authority, periodic review, procedure for revoking certification, and enforcement actions relative to control of soil erosion and sedimentation, as follows:

"12-7-8.

(a)(1) If a county or municipality has enacted ordinances which meet or exceed the standards, requirements, and provisions of this chapter and the state general permit, except that the standards, requirements, and provisions of the ordinances for monitoring, reporting, inspections, design standards, turbidity standards, education and training, and project size thresholds with regard to education and training requirements shall not exceed the state general permit requirements, and which are enforceable by such county or municipality, and if a county or municipality documents that it employs qualified personnel to implement enacted ordinances, the director may certify such county or municipality as a local issuing authority for the purposes of this chapter.

(2) A local issuing authority shall regulate both primary and secondary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. A local issuing authority must review, revise, or amend its ordinances within 12 months of any amendment to this chapter.

(3) Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of the ordinances such local issuing authority adopted pursuant to this chapter as are applied to private persons, and the division shall enforce such requirements upon the local issuing authority.

(b) The districts or the commission or both shall review semi-annually the actions of counties and municipalities which have been certified as local issuing authorities pursuant to subsection (a) of this Code section. The districts or the commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion and sedimentation control program. The districts or the commission shall notify the division and request investigation by the division if any deficient or ineffective local program is found.

(c) The board, on or before December 31, 2003, shall promulgate rules and regulations setting forth the requirements and standards for certification and the procedures for decertification of a local issuing authority. The division may periodically review the actions of counties and municipalities which have been certified as local issuing authorities pursuant to subsection (a) of this Code section. Such review may include, but shall not be limited to, review of the administration and enforcement of and compliance with a governing authority's ordinances and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the

governing authority of any county or municipality certified pursuant to subsection (a) of this Code section has not administered, enforced, or complied with its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to subsection (e) of Code Section 12-7-7, the division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a local issuing authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a local issuing authority.

(d) The director may determine that the public interest requires initiation of an enforcement action by the division. Where such a determination is made and the local issuing authority has failed to secure compliance, the director may implement the board's rules and seek compliance under provisions of Code Sections 12-7-12 through 12-7-15. For purposes of this subsection, enforcement actions taken by the division pursuant to Code Sections 12-7-12 through 12-7-15 shall not require prior revocation of certification of the county or municipality as a local issuing authority."

SECTION 3.

Said title is further amended by revising Code Section 12-7-19, relating to education and training requirements relative to soil erosion and sedimentation control requirements, required programs, instructor qualifications, and expiration of certification, as follows:

"12-7-19.

(a)(1) Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the commission in accordance with this Code section and in consultation with the division and the Stakeholder Advisory Board created pursuant to Code Section 12-7-20.

(2) On or after the effective date of this subsection, for each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.

(3) Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this chapter.

(4) If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of this Code section, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall have until December 31, 2007, to meet those educational requirements specified in paragraph (4) of subsection (b) of Code Section 12-7-19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

(b) No less than the following training programs shall be established:

(1) A fundamentals seminar (Level 1) will be established which provides sufficient training to all participants as to the applicable laws, requirements, processes, and latest means and methods recognized by this state to effectively control erosion and sedimentation;

(2) An advanced fundamentals seminar (Level 1) will be established which provides additional details of installation and maintenance of best management practices for both regulatory and nonregulatory inspectors and others;

(3) An introduction to design seminar (Level 2) will be established which provides required training to design and review a successful erosion, sedimentation, and pollution control plan;

(4) An awareness seminar (Level 1) will be established which does not exceed two hours in duration and which provides information regarding the erosion and sediment control practices and processes in the state and which will include an overview of the systems, laws, and roles of the participants; and

(5) A trainer and instructor seminar will be established for both Level 1 and Level 2 trainers and instructors which will provide the minimum training as to applicable laws and best management practices and design of erosion, sedimentation, and pollution control plans in this state.

(c) Trainer and instructor qualifications will be established with the following minimum requirements:

(1) Level 1 trainers and instructors shall meet at least the following minimum requirements and any other requirements as set by the commission:

(A) Education: four-year college degree or five years' experience in the field of erosion and sediment control;

(B) Experience: five-years' experience in the field of erosion and sediment control. Where years of experience is used in lieu of the education requirement of subparagraph (A) of this paragraph, a total of ten years' field experience is required;

(C) Approval by the commission and the Stakeholder Advisory Board; and

(D) Successful completion of the Level 1 trainer and instructor seminar found in paragraph (5) of subsection (b) of this Code section; and

(2) Level 2 trainers and instructors shall meet at least the minimum requirements of a Level 1 trainer or instructor, any other requirements as set by the commission, and

successful completion of the Level 2 trainer and instructor seminar created under paragraph (5) of subsection (b) of this Code section.

(d) In addition to the requirements of subsection (c) of this Code section, the commission shall establish and any person desirous of holding certification must obtain a passing grade as established by the Stakeholder Advisory Board on a final exam covering the material taught in each mandatory seminar; provided, however, that there shall be no final exam requirement for purposes of paragraph (4) of subsection (b) of this Code section. Final exams may, at the discretion of the commission, serve in lieu of attendance at the seminar. Any person shall be authorized to administer a final examination for any seminar for which he or she was the instructor.

(e)(1) A certification provided by achieving the requirements established by the commission shall expire no later than three years after its issuance.

(2) A certified individual shall be required to attend and participate in at least four hours of approved continuing education courses, as established by the commission, every three years.

(3) A certification may be extended or renewed by meeting requirements established by the commission.

(4) Revocation procedures may be established by the commission in consultation with the division and the Stakeholder Advisory Board."

SECTION 4.

Said title is further amended by revising Code Section 12-8-41, relating to permits from the Department of Natural Resources for land disposal sites that receive certain septic tank waste and rules and regulations relating thereto, as follows:

"12-8-41.

The department shall provide by rule or regulation for the regulation and permitting of any land disposal site that receives septic tank waste from any one or more septic tank pumping and hauling businesses. Any new permit issued for such type of site on or after July 1, 2007, shall be issued by the department under this Code section. Any such type of site that as of June 30, 2007, operated under a valid permit issued on or before such date by the Department of Human Resources under Code Section 31-2-8 may continue to operate under such Code section until July 1, 2012, but a permit shall be obtained from the department under this Code section prior to such date in order to continue such operation thereafter."

SECTION 5.

Chapter 2 of Title 31 of the Official Code of Georgia Annotated, relating to the Department of Human Resources, is amended by revising Code Section 31-2-8, relating to permits from the Department of Human Resources for land disposal sites that receive certain septic tank waste and rules and regulations relating thereto, as follows:

"31-2-8.

Until July 1, 2012, the department shall provide by rule or regulation for the regulation of any land disposal site that receives septic tank waste from only one septic tank pumping and hauling business and which as of June 30, 2007, operated under a valid permit for such activity as issued by the department under this Code section. No new permit shall be issued by the department under this Code section for such type of site on or after July 1, 2007, but instead any new permit issued for such type of site on or after such date shall be issued by the Department of Natural Resources under Code Section 12-8-41. This Code section shall stand repealed on July 1, 2012."

SECTION 6.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 7.

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

Approved May 14, 2007.

HEALTH – ADVANCE DIRECTIVE FOR HEALTH CARE.

No. 48 (House Bill No. 24).

AN ACT

To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to provide for an advance directive for health care which combines provisions of a living will and a durable power of attorney for health care; to provide for legislative findings; to provide for a short title; to provide for definitions; to provide for a savings clause for a living will and a durable power of attorney for health care; to provide for a form; to provide for execution, use of a form or other forms, amendment, and witness requirements; to provide for revocation, the effect of marriage, and guardianship; to provide for duties and responsibilities of health care agents and health care providers; to provide for conditions precedent to carrying out health care treatment preferences and a physician's responsibilities; to provide for immunity; to provide for the effect of an advance directive for health care on criminal and insurance laws; to provide for penalties; to provide for the effect of Chapter 32 of Title 31 on other legal rights and duties; to repeal and reserve Chapter 36 of Title 31, relating to a

durable power of attorney for health care; to correct cross-references; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

(a) The General Assembly has long recognized the right of the individual to control all aspects of his or her personal care and medical treatment, including the right to insist upon medical treatment, decline medical treatment, or direct that medical treatment be withdrawn. In order to secure these rights, the General Assembly has adopted and amended statutes recognizing the living will and health care agency and provided statutory forms for both documents.

(b) The General Assembly has determined that the statutory forms for the living will and durable power of attorney for health care are confusing and inconsistent and that the statutes providing for the living will and health care agency contain conflicting concepts, inconsistent and out-of-date terminology, and confusing and inconsistent requirements for execution. In addition, there is a commendable trend among the states to combine the concepts of the living will and health care agency into a single legal document.

(c) The General Assembly recognizes that a significant number of individuals representing the academic, medical, legislative, and legal communities, state officials, ethics scholars, and advocacy groups worked together to develop the advance directive for health care contained in this Act, and the collective intent was to create a form that uses understandable and everyday language in order to encourage more citizens of this state to execute advance directives for health care.

(d) The General Assembly finds that the clear expression of an individual's decisions regarding health care, whether made by the individual or an agent appointed by the individual, is of critical importance not only to citizens but also to the health care and legal communities, third parties, and families. In furtherance of these purposes, the General Assembly enacts a new Chapter 32 of Title 31, setting forth general principles governing the expression of decisions regarding health care and the appointment of a health care agent, as well as a form of advance directive for health care.

SECTION 2.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising Chapter 32, relating to living wills, in its entirety as follows:

"CHAPTER 32

31-32-1.

This chapter shall be known and may be cited as the 'Georgia Advance Directive for Health Care Act.'

31-32-2.

As used in this chapter, the term:

(1) 'Advance directive for health care' means a written document voluntarily executed by a declarant in accordance with the requirements of Code Section 31-32-5.

(2) 'Attending physician' means the physician who has primary responsibility at the time of reference for the treatment and care of the declarant.

(3) 'Declarant' means a person who has executed an advance directive for health care authorized by this chapter.

(4) 'Durable power of attorney for health care' means a written document voluntarily executed by an individual creating a health care agency in accordance with Chapter 36 of this title, as such chapter existed on and before June 30, 2007.

(5) 'Health care' means any care, treatment, service, or procedure to maintain, diagnose, treat, or provide for a declarant's physical or mental health or personal care.

(6) 'Health care agent' means a person appointed by a declarant to act for and on behalf of the declarant to make decisions related to consent, refusal, or withdrawal of any type of health care and decisions related to autopsy, anatomical gifts, and final disposition of a declarant's body when a declarant is unable or chooses not to make health care decisions for himself or herself. The term 'health care agent' shall include any back-up or successor agent appointed by the declarant.

(7) 'Health care facility' means a hospital, skilled nursing facility, hospice, institution, home, residential or nursing facility, treatment facility, and any other facility or service which has a valid permit or provisional permit issued under Chapter 7 of this title or which is licensed, accredited, or approved under the laws of any state, and includes hospitals operated by the United States government or by any state or subdivision thereof.

(8) 'Health care provider' means the attending physician and any other person administering health care to the declarant at the time of reference who is licensed, certified, or otherwise authorized or permitted by law to administer health care in the ordinary course of business or the practice of a profession, including any person employed by or acting for any such authorized person.

(9) 'Life-sustaining procedures' means medications, machines, or other medical procedures or interventions which, when applied to a declarant in a terminal condition or in a state of permanent unconsciousness, could in reasonable medical judgment keep the declarant alive but cannot cure the declarant and where, in the judgment of the attending physician and a second physician, death will occur without such procedures or interventions. The term 'life-sustaining procedures' shall not include the provision of nourishment or hydration but a declarant may direct the withholding or withdrawal of the provision of nourishment or hydration in an advance directive for health care. The term 'life-sustaining procedures' shall not include the administration of medication to alleviate pain or the performance of any medical procedure deemed necessary to alleviate pain.

(10) 'Living will' means a written document voluntarily executed by an individual directing the withholding or withdrawal of life-sustaining procedures when an individual

is in a terminal condition, coma, or persistent vegetative state in accordance with this chapter, as such chapter existed on and before June 30, 2007.

(11) 'Physician' means a person lawfully licensed in this state to practice medicine and surgery pursuant to Article 2 of Chapter 34 of Title 43; and if the declarant is receiving health care in another state, a person lawfully licensed in such state.

(12) 'Provision of nourishment or hydration' means the provision of nutrition or fluids by tube or other medical means.

(13) 'State of permanent unconsciousness' means an incurable or irreversible condition in which the declarant is not aware of himself or herself or his or her environment and in which the declarant is showing no behavioral response to his or her environment.

(14) 'Terminal condition' means an incurable or irreversible condition which would result in the declarant's death in a relatively short period of time.

31-32-3.

The provisions of this chapter shall not apply to, affect, or invalidate a living will or durable power of attorney for health care executed prior to July 1, 2007, to which the provisions of former Chapter 32 or Chapter 36 of this title shall continue to apply, nor shall it affect any claim, right, or remedy that accrued prior to July 1, 2007.

31-32-4.

'GEORGIA ADVANCE DIRECTIVE FOR HEALTH CARE

By: _____ Date of Birth: _____
(Print Name) (Month/Day/Year)

This advance directive for health care has four parts:

PART ONE HEALTH CARE AGENT. *This part allows you to choose someone to make health care decisions for you when you cannot (or do not want to) make health care decisions for yourself. The person you choose is called a health care agent. You may also have your health care agent make decisions for you after your death with respect to an autopsy, organ donation, body donation, and final disposition of your body. You should talk to your health care agent about this important role.*

PART TWO TREATMENT PREFERENCES. *This part allows you to state your treatment preferences if you have a terminal condition or if you are in a state of permanent unconsciousness. PART TWO will become effective only if you are unable to communicate your treatment preferences. Reasonable and appropriate efforts will be made to communicate with you about your treatment preferences before PART TWO becomes effective. You should talk to your family and others close to you about your treatment preferences.*

PART THREE GUARDIANSHIP. *This part allows you to nominate a person to be your guardian should one ever be needed.*

PART FOUR EFFECTIVENESS AND SIGNATURES. *This part requires your signature and the signatures of two witnesses. You must complete PART FOUR if you have filled out any other part of this form.*

You may fill out any or all of the first three parts listed above. You must fill out PART FOUR of this form in order for this form to be effective.

You should give a copy of this completed form to people who might need it, such as your health care agent, your family, and your physician. Keep a copy of this completed form at home in a place where it can easily be found if it is needed. Review this completed form periodically to make sure it still reflects your preferences. If your preferences change, complete a new advance directive for health care.

Using this form of advance directive for health care is completely optional. Other forms of advance directives for health care may be used in Georgia.

You may revoke this completed form at any time. This completed form will replace any advance directive for health care, durable power of attorney for health care, health care proxy, or living will that you have completed before completing this form.

PART ONE: HEALTH CARE AGENT

[PART ONE will be effective even if PART TWO is not completed. A physician or health care provider who is directly involved in your health care may not serve as your health care agent. If you are married, a future divorce or annulment of your marriage will revoke the selection of your current spouse as your health care agent. If you are not married, a future

marriage will revoke the selection of your health care agent unless the person you selected as your health care agent is your new spouse.]

(1) HEALTH CARE AGENT

I select the following person as my health care agent to make health care decisions for me:

Name: _____

Address: _____

Telephone Numbers: _____

(Home, Work, and Mobile)

(2) BACK-UP HEALTH CARE AGENT

[This section is optional. *PART ONE will be effective even if this section is left blank.]*

If my health care agent cannot be contacted in a reasonable time period and cannot be located with reasonable efforts or for any reason my health care agent is unavailable or unable or unwilling to act as my health care agent, then I select the following, each to act successively in the order named, as my back-up health care agent(s):

Name: _____

Address: _____

Telephone Numbers: _____

(Home, Work, and Mobile)

Name: _____

Address: _____

Telephone Numbers: _____

(Home, Work, and Mobile)

(3) GENERAL POWERS OF HEALTH CARE AGENT

My health care agent will make health care decisions for me when I am unable to communicate my health care decisions or I choose to have my health care agent communicate my health care decisions.

My health care agent will have the same authority to make any health care decision that I could make. My health care agent's authority includes, for example, the power to:

- Admit me to or discharge me from any hospital, skilled nursing facility, hospice, or other health care facility or service;
- Request, consent to, withhold, or withdraw any type of health care; and
- Contract for any health care facility or service for me, and to obligate me to pay for these services (and my health care agent will not be financially liable for any services or care contracted for me or on my behalf).

My health care agent will be my personal representative for all purposes of federal or state law related to privacy of medical records (including the Health Insurance Portability and Accountability Act of 1996) and will have the same access to my medical records that I have and can disclose the contents of my medical records to others for my ongoing health care.

My health care agent may accompany me in an ambulance or air ambulance if in the opinion of the ambulance personnel protocol permits a passenger and my health care agent may visit or consult with me in person while I am in a hospital, skilled nursing facility, hospice, or other health care facility or service if its protocol permits visitation.

My health care agent may present a copy of this advance directive for health care in lieu of the original and the copy will have the same meaning and effect as the original.

I understand that under Georgia law:

- My health care agent may refuse to act as my health care agent;
- A court can take away the powers of my health care agent if it finds that my health care agent is not acting properly; and
- My health care agent does not have the power to make health care decisions for me regarding psychosurgery, sterilization, or treatment or involuntary hospitalization for mental or emotional illness, mental retardation, or addictive disease.

(4) GUIDANCE FOR HEALTH CARE AGENT

When making health care decisions for me, my health care agent should think about what action would be consistent with past conversations we have had, my treatment preferences as expressed in PART TWO (if I have filled out PART TWO), my religious and other beliefs and values, and how I have handled medical and other important issues in the past. If what I would decide is still unclear, then my health care agent should make decisions for me that my health care agent believes are in my best interest, considering the benefits, burdens, and risks of my current circumstances and treatment options.

(5) POWERS OF HEALTH CARE AGENT AFTER DEATH

(A) AUTOPSY

My health care agent will have the power to authorize an autopsy of my body unless I have limited my health care agent's power by initialing below.

_____ (Initials) My health care agent will not have the power to authorize an autopsy of my body (unless an autopsy is required by law).

(B) ORGAN DONATION AND DONATION OF BODY

My health care agent will have the power to make a disposition of any part or all of my body for medical purposes pursuant to the Georgia Anatomical Gift Act, unless I have limited my health care agent's power by initialing below.

[Initial each statement that you want to apply.]

_____ (Initials) My health care agent will not have the power to make a disposition of my body for use in a medical study program.

_____ (Initials) My health care agent will not have the power to donate any of my organs.

(C) FINAL DISPOSITION OF BODY

My health care agent will have the power to make decisions about the final disposition of my body unless I have initialed below.

_____ (Initials) I want the following person to make decisions about the final disposition of my body:

Name: _____

Address: _____

Telephone Numbers: _____

(Home, Work, and Mobile)

I wish for my body to be:

_____ (Initials) Buried

OR

_____ (Initials) Cremated

PART TWO: TREATMENT PREFERENCES

[PART TWO will be effective only if you are unable to communicate your treatment preferences after reasonable and appropriate efforts have been made to communicate with you about your treatment preferences. PART TWO will be effective even if PART ONE is not completed. If you have not selected a health care agent in PART ONE, or if your health care agent is not available, then PART TWO will provide your physician and other health care providers with your treatment preferences. If you have selected a health care agent in PART ONE, then your health care agent will have the authority to make all health care decisions

for you regarding matters covered by PART TWO. Your health care agent will be guided by your treatment preferences and other factors described in Section (4) of PART ONE.]

(6) CONDITIONS

PART TWO will be effective if I am in any of the following conditions:

[Initial each condition in which you want PART TWO to be effective.]

_____ (Initials) A terminal condition, which means I have an incurable or irreversible condition that will result in my death in a relatively short period of time.

_____ (Initials) A state of permanent unconsciousness, which means I am in an incurable or irreversible condition in which I am not aware of myself or my environment and I show no behavioral response to my environment.

My condition will be determined in writing after personal examination by my attending physician and a second physician in accordance with currently accepted medical standards.

(7) TREATMENT PREFERENCES

[State your treatment preference by initialing (A), (B), or (C). If you choose (C), state your additional treatment preferences by initialing one or more of the statements following (C). You may provide additional instructions about your treatment preferences in the next section. You will be provided with comfort care, including pain relief, but you may also want to state your specific preferences regarding pain relief in the next section.]

If I am in any condition that I initialed in Section (6) above and I can no longer communicate my treatment preferences after reasonable and appropriate efforts have been made to communicate with me about my treatment preferences, then:

(A) _____ (Initials) Try to extend my life for as long as possible, using all medications, machines, or other medical procedures that in reasonable medical judgment could keep me alive. If I am unable to take nutrition or fluids by mouth, then I want to receive nutrition or fluids by tube or other medical means.

OR

(B) _____ (Initials) Allow my natural death to occur. I do not want any medications, machines, or other medical procedures that in reasonable medical judgment could keep me alive but cannot cure me. I do not want to receive nutrition or fluids by tube or other medical means except as needed to provide pain medication.

OR

(C) _____ (Initials) I do not want any medications, machines, or other medical procedures that in reasonable medical judgment could keep me alive but cannot cure me, except as follows:

[Initial each statement that you want to apply to option (C).]

_____ (Initials) If I am unable to take nutrition by mouth, I want to receive nutrition by tube or other medical means.

_____ (Initials) If I am unable to take fluids by mouth, I want to receive fluids by tube or other medical means.

_____ (Initials) If I need assistance to breathe, I want to have a ventilator used.

_____ (Initials) If my heart or pulse has stopped, I want to have cardiopulmonary resuscitation (CPR) used.

(8) ADDITIONAL STATEMENTS

[This section is optional. *PART TWO will be effective even if this section is left blank. This section allows you to state additional treatment preferences, to provide additional guidance to your health care agent (if you have selected a health care agent in PART ONE), or to provide information about your personal and religious values about your medical treatment. For example, you may want to state your treatment preferences regarding medications to fight infection, surgery, amputation, blood transfusion, or kidney dialysis. Understanding that you cannot foresee everything that could happen to you after you can no longer communicate your treatment preferences, you may want to provide guidance to your health care agent (if you have selected a health care agent in PART ONE) about following your treatment preferences. You may want to state your specific preferences regarding pain relief.]*

_____

_____

_____

(9) IN CASE OF PREGNANCY

[PART TWO will be effective even if this section is left blank.]

I understand that under Georgia law, PART TWO generally will have no force and effect if I am pregnant unless the fetus is not viable and I indicate by initialing below that I want PART TWO to be carried out.

_____ (Initials) I want PART TWO to be carried out if my fetus is not viable.

PART THREE: GUARDIANSHIP

(10) GUARDIANSHIP

[PART THREE is optional. *This advance directive for health care will be effective even if PART THREE is left blank. If you wish to nominate a person to be your guardian in the event a court decides that a guardian should be appointed, complete PART THREE. A court will appoint a guardian for you if the court finds that you are not able to make significant responsible decisions for yourself regarding your personal support, safety, or welfare. A court will appoint the person nominated by you if the court finds that the appointment will serve your best interest and welfare. If you have selected a health care agent in PART ONE, you may (but are not required to) nominate the same person to be your guardian. If your health care agent and guardian are not the same person, your health care agent will have priority over your guardian in making your health care decisions, unless a court determines otherwise.]*

[State your preference by initialing (A) or (B). Choose (A) only if you have also completed PART ONE.]

(A) _____ (Initials) I nominate the person serving as my health care agent under PART ONE to serve as my guardian.

OR

(B) _____ (Initials) I nominate the following person to serve as my guardian:

Name: _____

Address: _____

Telephone Numbers: _____

(Home, Work, and Mobile)

PART FOUR: EFFECTIVENESS AND SIGNATURES

This advance directive for health care will become effective only if I am unable or choose not to make or communicate my own health care decisions.

This form revokes any advance directive for health care, durable power of attorney for health care, health care proxy, or living will that I have completed before this date.

Unless I have initialed below and have provided alternative future dates or events, this advance directive for health care will become effective at the time I sign it and will remain effective until my death (and after my death to the extent authorized in Section (5) of PART ONE).

_____ (Initials) This advance directive for health care will become effective on or upon _____ and will terminate on or upon _____.

[You must sign and date or acknowledge signing and dating this form in the presence of two witnesses.
Both witnesses must be of sound mind and must be at least 18 years of age, but the witnesses do not have to be together or present with you when you sign this form.
A witness:

- *Cannot be a person who was selected to be your health care agent or back-up health care agent in PART ONE;*
- *Cannot be a person who will knowingly inherit anything from you or otherwise knowingly gain a financial benefit from your death; or*
- *Cannot be a person who is directly involved in your health care.*

Only one of the witnesses may be an employee, agent, or medical staff member of the hospital, skilled nursing facility, hospice, or other health care facility in which you are receiving health care (but this witness cannot be directly involved in your health care).]

By signing below, I state that I am emotionally and mentally capable of making this advance directive for health care and that I understand its purpose and effect.

_____ _____
(Signature of Declarant) (Date)

The declarant signed this form in my presence or acknowledged signing this form to me. Based upon my personal observation, the declarant appeared to be emotionally and mentally capable of making this advance directive for health care and signed this form willingly and voluntarily.

_____ _____
(Signature of First Witness) (Date)
Print Name: _____
Address: _____

_____ _____
(Signature of Second Witness) (Date)

Print Name: _____
Address: _____

[This form does not need to be notarized.]'

31-32-5.

(a) Any person of sound mind who is emancipated or 18 years of age or older may execute a document which:

(1) Appoints a health care agent;

(2) Directs the withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration when the declarant is in a terminal condition or state of permanent unconsciousness; or

(3) Covers matters contained in both paragraphs (1) and (2) of this subsection.

Such document shall be in writing, signed by the declarant or by some other person in the declarant's presence and at the declarant's express direction, and witnessed in accordance with the provisions of subsection (c) of this Code section.

(b) When a document substantially complying with Code Section 31-32-4 is executed in accordance with this Code section, it shall be treated as an advance directive for health care which complies with this Code section. No provision of this chapter shall be construed to bar a declarant from using any other form of advance directive for health care which complies with this Code section. A document covering any matter contained in paragraph (1), (2), or (3) of subsection (a) of this Code section which was executed in another state and is valid under the laws of the state where executed shall be treated as an advance directive for health care which complies with this Code section.

(c)(1) An advance directive for health care shall be attested and subscribed in the presence of the declarant by two witnesses who are of sound mind and at least 18 years of age, but such witnesses do not have to be together or present when the declarant signs the advance directive for health care.

(2) Neither witness can be a person who:

(A) Was selected to serve as the declarant's health care agent;

(B) Will knowingly inherit anything from the declarant or otherwise knowingly gain a financial benefit from the declarant's death; or

(C) Is directly involved in the declarant's health care.

(3) Not more than one of the witnesses may be an employee, agent, or medical staff member of the health care facility in which the declarant is receiving health care.

(d) A physician or health care provider who is directly involved in the declarant's health care may not serve as the declarant's health care agent.

(e) A copy of an advance directive for health care executed in accordance with this Code section shall be valid and have the same meaning and effect as the original document.

(f) An advance directive for health care may be amended at any time by a written document signed by the declarant or by some other person in the declarant's presence and

at the declarant's express direction, and witnessed in accordance with the provisions of subsection (c) of this Code section.

31-32-6.

(a) An advance directive for health care may be revoked at any time by the declarant, without regard to the declarant's mental state or competency, by any of the following methods:

(1) By completing a new advance directive for health care that has provisions which are inconsistent with the provisions of a previously executed advance directive for health care, living will, or durable power of attorney for health care; provided, however, that such revocation shall extend only so far as the inconsistency exists between the documents and any part of a prior document that is not inconsistent with a subsequent document shall remain unrevoked;

(2) By being obliterated, burned, torn, or otherwise destroyed by the declarant or by some person in the declarant's presence and at the declarant's direction indicating an intention to revoke;

(3) By a written revocation clearly expressing the intent of the declarant to revoke the advance directive for health care signed and dated by the declarant or by a person acting at the declarant's direction. If the declarant is receiving health care in a health care facility, revocation of an advance directive for health care will become effective only upon communication to the attending physician by the declarant or by a person acting at the declarant's direction. The attending physician shall record in the declarant's medical record the time and date when the attending physician received notification of the written revocation; or

(4) By an oral or any other clear expression of the intent to revoke the advance directive for health care in the presence of a witness 18 years of age or older who, within 30 days of the expression of such intent, signs and dates a writing confirming that such expression of intent was made. If the declarant is receiving health care in a health care facility, revocation of an advance directive for health care will become effective only upon communication to the attending physician by the declarant or by a person acting at the declarant's direction. The attending physician shall record in the declarant's medical record the time, date, and place of the revocation and the time, date, and place, if different, when the attending physician received notification of the revocation. Any person, other than the health care agent, to whom an oral or other nonwritten revocation of an advance directive for health care is communicated or delivered shall make all reasonable efforts to inform the health care agent of that fact as promptly as possible.

(b) Unless an advance directive for health care expressly provides otherwise, if after executing an advance directive for health care, the declarant marries, such marriage shall revoke the designation of a person other than the declarant's spouse as the declarant's health care agent, and if, after executing an advance directive for health care, the

declarant's marriage is dissolved or annulled, such dissolution or annulment shall revoke the designation of the declarant's former spouse as the declarant's health care agent.

(c) An advance directive for health care which survives disability, incapacity, or incompetency shall not be revoked solely by the appointment of a guardian or receiver for the declarant. Absent an order of the probate court or superior court having jurisdiction directing a guardian of the person to exercise the powers of the declarant under an advance directive for health care which survives disability, incapacity, or incompetency, the guardian of the person has no power, duty, or liability with respect to any health care matters covered by the advance directive for health care; provided, however, that no order usurping the authority of a health care agent known to the proposed guardian shall be entered unless notice is sent by first-class mail to the health care agent's last known address and it is shown by clear and convincing evidence that the health care agent is acting in a manner inconsistent with the power of attorney.

31-32-7.

(a) A health care agent shall not have the authority to make a particular health care decision different from or contrary to the declarant's decision, if any, if the declarant is able to understand the general nature of the health care procedure being consented to or refused, as determined by the declarant's attending physician based on such physician's good faith judgment.

(b) A health care agent shall be under no duty to exercise granted powers or to assume control of or responsibility for the declarant's health care; provided, however, that when granted powers are exercised, the health care agent shall use due care to act for the benefit of the declarant in accordance with the terms of the advance directive for health care. A health care agent shall exercise granted powers in such manner as the health care agent deems consistent with the intentions and desires of the declarant. If a declarant's intentions and desires are unclear, the health care agent shall act in the declarant's best interest considering the benefits, burdens, and risks of the declarant's circumstances and treatment options.

(c) A health care agent may act in person or through others reasonably employed by the health care agent for that purpose but may not delegate authority to make health care decisions.

(d) A health care agent may sign and deliver all instruments, negotiate and enter into all agreements, and do all other acts reasonably necessary to implement the exercise of the powers granted to the health care agent. A health care agent shall be authorized to accompany a declarant in an ambulance or air ambulance if in the opinion of the ambulance personnel protocol permits a passenger and to visit or consult in person with a declarant who is admitted to a health care facility if the health care facility's protocol permits such visitation.

(e) The form of advance directive for health care contained in Code Section 31-32-4 shall, and any different form of advance directive for health care may, include the following powers, subject to any limitations appearing on the face of the form:

(1) The health care agent is authorized to consent to and authorize or refuse, or to withhold or withdraw consent to, any and all types of medical care, treatment, or procedures relating to the physical or mental health of the declarant, including any medication program, surgical procedures, life-sustaining procedures, or provision of nourishment or hydration for the declarant, but not including psychosurgery, sterilization, or involuntary hospitalization or treatment covered by Title 37;

(2) The health care agent is authorized to admit the declarant to or discharge the declarant from any health care facility;

(3) The health care agent is authorized to contract for any health care facility or service in the name of and on behalf of the declarant and to bind the declarant to pay for all such services, and the health care agent shall not be personally liable for any services or care contracted for or on behalf of the declarant;

(4) At the declarant's expense and subject to reasonable rules of the health care provider to prevent disruption of the declarant's health care, the health care agent shall have the same right the declarant has to examine and copy and consent to disclosure of all the declarant's medical records that the health care agent deems relevant to the exercise of the agent's powers, whether the records relate to mental health or any other medical condition and whether they are in the possession of or maintained by any physician, psychiatrist, psychologist, therapist, health care facility, or other health care provider, notwithstanding the provisions of any statute or other rule of law to the contrary; and

(5) Unless otherwise provided, the health care agent is authorized to direct that an autopsy of the declarant's body be made; to make an anatomical gift of any part or all of the declarant's body pursuant to Article 6 of Chapter 5 of Title 44, the 'Georgia Anatomical Gift Act'; and to direct the final disposition of the declarant's body, including funeral arrangements, burial, or cremation.

(f) A court may remove a health care agent if it finds that the health care agent is not acting properly.

31-32-8.

Each health care provider and each other person with whom a health care agent interacts under an advance directive for health care shall be subject to the following duties and responsibilities:

(1) It is the responsibility of the health care agent or declarant to notify the health care provider of the existence of the advance directive for health care and any amendment or revocation thereof. A health care provider furnished with a copy of an advance directive for health care shall make such copy a part of the declarant's medical records and shall enter in the records any change in or termination of the advance directive for health care by the declarant that becomes known to the health care provider. A health care provider

shall grant a health care agent adequate access to a declarant when a declarant is admitted to any health care facility. Whenever a health care provider believes a declarant is unable to understand the general nature of the health care procedure which the provider deems necessary, the health care provider shall consult with any available health care agent known to the health care provider who then has power to act for the declarant under an advance directive for health care;

(2) A health care decision made by a health care agent in accordance with the terms of an advance directive for health care shall be complied with by every health care provider to whom the decision is communicated, subject to the health care provider's right to administer treatment for the declarant's comfort or alleviation of pain; provided, however, that if the health care provider is unwilling to comply with the health care agent's decision, the health care provider shall promptly inform the health care agent who shall then be responsible for arranging for the declarant's transfer to another health care provider. A health care provider who is unwilling to comply with the health care agent's decision shall provide reasonably necessary consultation and care in connection with the pending transfer;

(3) At the declarant's expense and subject to reasonable rules of the health care provider to prevent disruption of the declarant's health care, each health care provider shall give a health care agent authorized to receive such information under an advance directive for health care the same right the declarant has to examine and copy any part or all of the declarant's medical records that the health care agent deems relevant to the exercise of the health care agent's powers, whether the records relate to mental health or any other medical condition and whether they are in the possession of or maintained by any physician, psychiatrist, psychologist, therapist, health care facility, or other health care provider, notwithstanding the provisions of any statute or rule of law to the contrary; and

(4) If and to the extent an advance directive for health care empowers the health care agent to direct that an autopsy of the declarant's body be made; to make an anatomical gift of any part or all of the declarant's body pursuant to Article 6 of Chapter 5 of Title 44, the 'Georgia Anatomical Gift Act'; or to direct the final disposition of the declarant's body, including funeral arrangements, burial, or cremation, the decisions of the health care agent on such matters shall be deemed the act of the declarant or of the person who has priority under law to make the necessary decisions, and each person to whom a direction by the health care agent in accordance with the terms of the agency is communicated shall comply with such direction to the extent it is in accord with reasonable medical standards or other relevant standards at the time of reference.

31-32-9.

(a) Prior to effecting a withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration from a declarant pursuant to a declarant's directions in an advance directive for health care, the attending physician:

(1) Shall determine that, to the best of that attending physician's knowledge, the declarant is not pregnant, or if she is, that the fetus is not viable and that the declarant has specifically indicated in the advance directive for health care that the declarant's directions regarding the withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration are to be carried out;

(2) Shall, without delay after the diagnosis of a terminal condition or state of permanent unconsciousness of the declarant, take the necessary steps to provide for the written certification of the declarant's terminal condition or state of permanent unconsciousness in accordance with the procedure set forth in subsection (b) of this Code section;

(3) Shall make a reasonable effort to determine that the advance directive for health care complies with Code Section 31-32-5; and

(4) Shall make the advance directive for health care and the written certification of the terminal condition or state of permanent unconsciousness a part of the declarant patient's medical records.

(b) The procedure for establishing a terminal condition or state of permanent unconsciousness is as follows: two physicians, one of whom shall be the attending physician, who, after personally examining the declarant, shall certify in writing, based upon conditions found during the course of their examination and in accordance with currently accepted medical standards, that the declarant is in a terminal condition or state of permanent unconsciousness.

(c) The advance directive for health care shall be presumed, unless revoked, to be the directions of the declarant regarding the withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration.

(d) The attending physician who fails or refuses to comply with the declarant's directions regarding the withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration shall advise promptly the health care agent, if one is appointed, and, otherwise, next of kin or legal guardian of the declarant that such physician is unwilling to effectuate such directions. The attending physician shall thereafter at the election of the health care agent, if one is appointed, and, otherwise, next of kin or legal guardian of the declarant:

(1) Make a good faith attempt to effect the transfer of the declarant to another physician who will comply with the declarant's directions regarding the withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration; or

(2) Permit the health care agent, if one is appointed, and, otherwise, next of kin or legal guardian of the declarant to obtain another physician who will comply with the declarant's directions regarding the withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration.

31-32-10.

(a) Each health care provider, health care facility, and any other person who acts in good faith reliance on any direction or decision by the health care agent shall be protected and released to the same extent as though such person had interacted directly with the declarant as a fully competent person. Without limiting the generality of the foregoing, the following specific provisions shall also govern, protect, and validate the acts of the health care agent and each such health care provider, health care facility, and any other person acting in good faith reliance on such direction or decision:

(1) No such health care provider, health care facility, or person shall be subject to civil or criminal liability or discipline for unprofessional conduct solely for complying with any direction or decision by the health care agent, even if death or injury to the declarant ensues;

(2) No such health care provider, health care facility, or person shall be subject to civil or criminal liability or discipline for unprofessional conduct solely for failure to comply with any direction or decision by the health care agent, as long as such health care provider, health care facility, or person promptly informs the health care agent of such health care provider's, health care facility's, or person's refusal or failure to comply with such direction or decision by the health care agent. The health care agent shall then be responsible for arranging the declarant's transfer to another health care provider. A health care provider who is unwilling to comply with the health care agent's decision shall continue to provide reasonably necessary consultation and care in connection with the pending transfer;

(3) If the actions of a health care provider, health care facility, or person who fails to comply with any direction or decision by the health care agent are substantially in accord with reasonable medical standards at the time of reference and the provider cooperates in the transfer of the declarant pursuant to paragraph (2) of Code Section 31-32-8, the health care provider, health care facility, or person shall not be subject to civil or criminal liability or discipline for unprofessional conduct for failure to comply with the advance directive for health care;

(4) No health care agent who, in good faith, acts with due care for the benefit of the declarant and in accordance with the terms of an advance directive for health care, or who fails to act, shall be subject to civil or criminal liability for such action or inaction; and

(5) If the authority granted by an advance directive for health care is revoked under Code Section 31-32-6, a person shall not be subject to criminal prosecution or civil liability for acting in good faith reliance upon such advance directive for health care unless such person had actual knowledge of the revocation.

(b) No person shall be civilly liable for failing or refusing in good faith to effectuate the declarant's directions regarding the withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration.

(c) No physician or any person acting under a physician's direction and no health care facility or any agent or employee thereof who, acting in good faith in accordance with the

requirements of this chapter, causes the withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration from a declarant or who otherwise participates in good faith therein shall be subject to any civil or criminal liability or guilty of unprofessional conduct therefor.

(d) No person who witnesses an advance directive for health care in good faith and in accordance with subsection (c) of Code Section 31-32-5 shall be civilly or criminally liable or guilty of unprofessional conduct for such action.

(e) Any person who participates in the withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration pursuant to an advance directive for health care and who has actual knowledge that such advance directive for health care has been properly revoked shall not have any civil or criminal immunity otherwise granted under this chapter for such conduct.

31-32-11.

(a) The making of an advance directive for health care containing a declarant's directions regarding the withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration, shall not, for any purpose, constitute a suicide. If the declarant's death results from the withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration in accordance with the terms of an advance directive for health care, the death shall not constitute a suicide or homicide for any purpose under any statute or other rule of law.

(b) The making of an advance directive for health care shall not restrict, inhibit, or impair in any manner the sale, procurement, issuance, or enforceability of any policy of life insurance, annuity, or other contract that is conditioned on the life or death of the declarant nor shall it be deemed to modify the terms of an existing policy of life insurance, annuity, or other contract that is conditioned on the life or death of the declarant, notwithstanding any term of the policy to the contrary. No policy of life insurance, annuity, or other contract that is conditioned on the life or death of the declarant shall be legally impaired or invalidated in any manner by the making of an advance directive for health care pursuant to this chapter or by the withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration from an insured declarant, nor shall the making of such an advance directive for health care or the withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration operate to deny any additional insurance benefits for accidental death of the declarant in any case in which the terminal condition of the declarant is the result of accident, notwithstanding any term of the policy to the contrary.

31-32-12.
(a) No physician, health care facility, or health care provider and no health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital service plan shall require any person to execute an advance directive for health care as a condition for being insured for or receiving health care services.
(b) No health care facility shall prepare or offer to prepare an advance directive for health care unless specifically requested to do so by a person desiring to execute an advance directive for health care. For purposes of this subsection, the Department of Corrections shall not be deemed to be a health care facility.

31-32-13.
All persons shall be subject to the following sanctions in relation to advance directives for health care, in addition to all other sanctions applicable under any other law or rule of professional conduct:
(1) Any person who, without the declarant's consent, willfully conceals, cancels, or alters an advance directive for health care or any amendment or revocation of the advance directive for health care or who falsifies or forges an advance directive for health care, amendment, or revocation shall be civilly liable and guilty of a misdemeanor;
(2) Any person who falsifies or forges an advance directive for health care of another or who willfully conceals or withholds personal knowledge of an amendment or revocation of an advance directive for health care with the intent to cause a withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration contrary to the intent of the declarant and thereby, because of such act, directly causes life-sustaining procedures or the provision of nourishment or hydration to be withheld or withdrawn and death thereby to be hastened shall be subject to prosecution for criminal homicide as provided in Chapter 5 of Title 16;
(3) Any person who requires or prevents execution of an advance directive for health care as a condition of ensuring or providing any type of health care services to an individual shall be civilly liable and guilty of a misdemeanor; and
(4) Any person who willfully witnesses an advance directive for health care knowing at the time he or she is not eligible to witness such advance directive under subsection (c) of Code Section 31-32-5 or who coerces or attempts to coerce a person into making an advance directive for health care shall be civilly liable and guilty of a misdemeanor.

31-32-14.
(a) Nothing in this chapter shall impair or supersede any legal right or legal responsibility which any person may have to effect the withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration in any lawful manner.
(b) Nothing in this chapter shall be construed to condone, authorize, or approve mercy killing or to permit any affirmative or deliberate act or omission to end life other than to

permit the process of dying as provided in this chapter. Furthermore, nothing in this chapter shall be construed to condone, authorize, or approve abortion.

(c) This chapter shall create no presumption concerning the intention of an individual who has not executed an advance directive for health care to consent to the use or withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration in the event of a terminal condition or state of permanent unconsciousness.

(d) Except to the extent provided in an advance directive for health care and subject to the health care agent's duty to exercise granted powers in such manner as the health care agent deems consistent with the intentions and desires of the declarant pursuant to subsection (b) of Code Section 31-32-7, a declarant's directions in an advance directive for health care regarding the withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration shall be ineffective as long as there is a health care agent available and willing to make decisions for and on behalf of the declarant regarding the withholding or withdrawal of life-sustaining procedures or the withholding or withdrawal of the provision of nourishment or hydration when the declarant is in a terminal condition or state of permanent unconsciousness.

(e) Unless an advance directive for health care provides otherwise, a health care agent who is known to a health care provider to be available and willing to make health care decisions for a declarant has priority over any other person, including any guardian, to act for the declarant in all matters covered by the advance directive for health care.

(f) Nothing in this chapter shall affect the delegation of a parent's power to control the health care of a minor child."

SECTION 3.

Said title is further amended by repealing Chapter 36, relating to durable power of attorney for health care, and designating said chapter as reserved.

SECTION 4.

Code Section 10-12-4 of the Official Code of Georgia Annotated, relating to the legal effect of electronic signatures, is amended by revising paragraph (3) of subsection (i) as follows:

"(3) The provisions of this Code section shall not apply to any rule of law governing the creation or execution of a will or testamentary or donative trust, living will, advance directive for health care, or health care power of attorney, or to any record that serves as a unique and transferable physical token of rights and obligations, including, without limitation, negotiable instruments and instruments of title wherein possession of the instrument is deemed to confer title."

SECTION 5.

Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes against the person, is amended by revising subsection (d) of Code Section 16-5-5, relating to offering to assist in the commission of suicide, as follows:

"(d) The provisions of this Code section shall not be deemed to affect any of the laws, in whole or in part, that may be applicable to the withholding or withdrawal of medical or health care treatment, including, but not limited to, laws related to a living will, a durable power of attorney for health care, an advance directive for health care, or a written order not to resuscitate."

SECTION 6.

Said chapter is further amended by revising subsection (b) of Code Section 16-5-100, relating to cruelty to a person 65 years of age of older, as follows:

"(b) The provisions of this Code section shall not apply to a physician nor any person acting under a physician's direction nor to a hospital, skilled nursing facility, hospice, nor any agent or employee thereof who is in good faith following a course of treatment developed in accordance with accepted medical standards or who is acting in good faith in accordance with a living will, a durable power of attorney for health care, an advance directive for health care, an order not to resuscitate, or the instructions of the patient or the patient's lawful surrogate decision maker, nor shall the provisions of this Code section require any physician, any institution licensed in accordance with Chapter 7 of Title 31 or any employee or agent thereof to provide health care services or shelter to any person in the absence of another legal obligation to do so."

SECTION 7.

Title 29 of the Official Code of Georgia Annotated, relating to guardian and ward, is amended by revising subsection (c) of Code Section 29-4-3, relating to order of preference in selection of guardians, as follows:

"(c) At any time prior to the appointment of a guardian, an adult may nominate in writing an individual to serve as that adult's guardian should the adult be judicially determined to be in need of a guardian, and that nomination shall be given the preference described in this Code section, provided that it is signed in accordance with the provisions of subsection (e) of this Code section or the provisions of Code Section 31-32-5."

SECTION 8.

Said title is further amended by revising paragraph (6) of subsection (b) of Code Section 29-4-10, relating to petition for appointment of guardian, as follows:

"(6) Whether, to the petitioner's knowledge, there exists any living will, durable power of attorney for health care, advance directive for health care, order relating to cardiopulmonary resuscitation, or other instrument that deals with the management of the

person of the proposed ward in the event of incapacity and the name and address of any fiduciary or agent named in the instrument;"

SECTION 9.

Said title is further amended by revising subsection (b) of Code Section 29-4-21, relating to rights and privileges removed from ward upon appointment of a guardian, as follows:

"(b) The mere appointment of a guardian does not revoke the powers of an agent who was previously appointed by the ward to act as an agent under a durable power of attorney for health care or health care agent under an advance directive for health care."

SECTION 10.

Said title is further amended by revising subsection (b) of Code Section 29-5-21, relating to rights and powers removed from ward, as follows:

"(b) The mere appointment of a conservator does not revoke the powers of an agent who was previously appointed by the ward to act as the ward's agent under a durable power of attorney for health care or health care agent under an advance directive for health care."

SECTION 11.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising subsection (b) of Code Section 31-8-55, relating to the state or community ombudsman's authority to enter and investigate certain facilities, as follows:

"(b) The state ombudsman or community ombudsman shall have the authority to enter any long-term care facility and shall use his or her best efforts to enter such facility during normal visiting hours. Upon entering the long-term care facility, the ombudsman shall notify the administrator or, in the absence of the administrator, the person in charge of the facility, before speaking to any residents. After notifying the administrator or the person in charge of the facility, the ombudsman may communicate privately and confidentially with residents of the facility, individually or in groups. The ombudsman shall have access to the medical and social records of any resident if:

(1) The ombudsman has the permission of the resident or the legal representative or guardian of the resident;

(2) The resident is unable to consent to the review and has no legal representative or guardian; or

(3) There is a guardian of the person of the resident and that guardian refuses to permit access to the records necessary to investigate a complaint, and:

(A) There is reasonable cause to believe that the guardian is not acting in the best interests of the resident; and

(B) A community ombudsman obtains the approval of the state ombudsman.

As used in this Code section, the term 'legal representative' means an agent under a valid power of attorney, provided that the agent is acting within the scope of his or her agency; an agent under a durable power of attorney for health care or health care agent under an

advance directive for health care; or an executor, executrix, administrator, or administratrix of the estate of a deceased resident. The ombudsman shall have the authority to inspect the physical plant and have access to the administrative records, policies, and documents of the facility to which the residents have or the general public has access. Entry and investigation provided by this Code section shall be conducted in a manner which will not significantly disrupt the provision of nursing or other care to residents."

SECTION 12.

Said title is further amended by revising subsection (a) of Code Section 31-9-2, relating to persons authorized to consent to surgical or medical treatment, as follows:

"(a) In addition to such other persons as may be authorized and empowered, any one of the following persons is authorized and empowered to consent, either orally or otherwise, to any surgical or medical treatment or procedures not prohibited by law which may be suggested, recommended, prescribed, or directed by a duly licensed physician:

(1) Any adult, for himself or herself, whether by living will, advance directive for health care, or otherwise;

(1.1) Any person authorized to give such consent for the adult under an advance directive for health care or durable power of attorney for health care under Chapter 32 of Title 31;

(2) In the absence or unavailability of a living spouse, any parent, whether an adult or a minor, for his or her minor child;

(3) Any married person, whether an adult or a minor, for himself or herself and for his or her spouse;

(4) Any person temporarily standing in loco parentis, whether formally serving or not, for the minor under his or her care; and any guardian, for his or her ward;

(5) Any female, regardless of age or marital status, for herself when given in connection with pregnancy, or the prevention thereof, or childbirth; or

(6) Upon the inability of any adult to consent for himself or herself and in the absence of any person to consent under paragraphs (2) through (5) of this subsection, the following persons in the following order of priority:

(A) Any adult child for his or her parents;

(B) Any parent for his or her adult child;

(C) Any adult for his or her brother or sister; or

(D) Any grandparent for his or her grandchild."

SECTION 13.

Said title is further amended by revising paragraph (2) of subsection (a) of Code Section 31-33-2, relating to furnishing copy of health records to a patient, provider, or other authorized person, as follows:

"(2) Upon written request from the patient or a person authorized to have access to the patient's record under an advance directive for health care or a durable power of attorney for health care for such patient, the provider having custody and control of the patient's

record shall furnish a complete and current copy of that record, in accordance with the provisions of this Code section. If the patient is deceased, such request may be made by the following persons:

(A) The executor, administrator, or temporary administrator for the decedent's estate if such person has been appointed;

(B) If an executor, administrator, or temporary administrator for the decedent's estate has not been appointed, by the surviving spouse;

(C) If there is no surviving spouse, by any surviving child; and

(D) If there is no surviving child, by any parent."

SECTION 14.

Said title is further amended by revising paragraph (2) of subsection (a) of Code Section 31-36A-6, relating to persons authorized to consent, as follows:

"(2) Any person authorized to give such consent for the adult under an advance directive for health care or durable power of attorney for health care under Chapter 32 of this title;"

SECTION 15.

Said title is further amended by revising subparagraph (A) of paragraph (3) of Code Section 31-39-2, relating to definitions for cardiopulmonary resuscitation, as follows:

"(A) Any agent under a durable power of attorney for health care or health care agent under an advance directive for health care appointed pursuant to Chapter 32 of this title;"

SECTION 16.

Code Section 37-2-35 of the Official Code of Georgia Annotated, relating to relationship to service recipients, is amended by revising subsection (b) as follows:

"(b) The state ombudsman or a community ombudsman shall have the authority to enter any facility, premises, or property where disability services are provided and shall use his or her best efforts to enter such facility, premises, or property during normal business hours. Upon entering such facility, premises, or property, the ombudsman shall notify the administrator or, in the absence of the administrator, the person in charge of such facility, premises, or property before speaking to any service recipient. After notifying the administrator or the person in charge of such facility, premises, or property, the ombudsman may communicate privately and confidentially with service recipients in such facility, premises, or property individually or in groups. The ombudsman shall have access to the medical, social, and disability records of any service recipient if:

(1) The ombudsman has the permission of the service recipient or the legal representative or guardian of the service recipient;

(2) The service recipient is unable to consent to the review and has no legal representative or guardian; or

(3) There is a guardian of the person of the service recipient and that guardian refuses to permit access to the records necessary to investigate a complaint, and:

(A) There is reasonable cause to believe that the guardian is not acting in the best interest of the service recipient; and

(B) A community ombudsman obtains the approval of the state ombudsman.

As used in this Code section, the term 'legal representative' means an agent under a valid power of attorney, provided that the agent is acting within the scope of his or her agency; an agent under a durable power of attorney for health care or health care agent under an advance directive for health care; or an executor, executrix, administrator, or administratrix of the estate of a deceased service recipient. The ombudsman shall have the authority to inspect the physical plant and have access to the administrative records, policies, and documents of the facility, premises, or property to which the service recipients have or the general public has access. Entry and investigation as provided by this Code section shall be conducted in a manner which will not significantly disrupt the provision of disability services to service recipients."

SECTION 17.

Code Section 44-5-143 of the Official Code of Georgia Annotated, relating to adult decedents, is amended by revising paragraph (1) of subsection (b) as follows:

"(1) Any person having the power to permit an anatomical gift of all or part of the body of the decedent if such power is granted pursuant to a durable power of attorney for health care or advance directive for health care under Chapter 32 of Title 31;"

SECTION 18.

Code Section 49-6-72 of the Official Code of Georgia Annotated, relating to definitions for services for the aging, is amended by revising paragraph (9) as follows:

"(9) 'Primary caregiver' means the one identified relative or other person in a relationship of responsibility, such as an agent under a valid durable power of attorney for health care or health care agent under a valid advance directive for health care, who has assumed the primary responsibility for the provision of care needed to maintain the physical or mental health of a functionally dependent older adult or other adult suffering from dementia, who lives in the same residence with such individual, and who does not receive financial compensation for the care provided. A substantiated case of abuse, neglect, or exploitation, as defined in Chapter 5 of Title 30, the 'Disabled Adults and Elder Persons Protection Act,' or pursuant to any other civil or criminal statute regarding an older adult, shall prohibit a primary caregiver from receiving benefits under this article unless authorized by the department to prevent further abuse."

SECTION 19.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding to the end of Chapter 5A, relating to the Department of Community Health, a new Code Section to read as follows:

31-5A-7.

Performance and outcome data and pricing data for selected medical conditions, surgeries and procedures in hospitals, ambulatory surgery centers, nursing homes and rehabilitation centers in Georgia shall be reported to the Department of Community Health on a regular basis. The Department shall provide for the establishment of a website for the purpose of providing consumers on the cost and quality of health care in Georgia to include but not be limited to cost comparison information on certain prescription drugs at different pharmacies in Georgia, hospitals, ambulatory surgery centers, nursing homes and rehabilitation centers and facilities in Georgia.

SECTION 20.

This Act shall become effective on July 1, 2007.

SECTION 21.

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

Approved May 16, 2007.

STATE GOVERNMENT – OPEN RECORDS EXCEPTIONS; AGRICULTURE OR FOOD SYSTEM RECORDS; NATIONAL ANIMAL IDENTIFICATION SYSTEM RECORDS.

No. 49 (House Bill No. 101).

AN ACT

To amend Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to public records that are not subject to disclosure, so as to provide that agricultural or food system records, data, or information that are considered a part of the critical infrastructure shall not be subject to disclosure; to provide that records, data, or information collected, recorded, or otherwise obtained for the purposes of the national animal identification system shall not be subject to disclosure; to provide for exceptions; to provide definitions; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to public records that are not subject to disclosure, is amended by adding new paragraphs (10.2) and (10.3) to subsection (a) to read as follows:

"(10.2) Agricultural or food system records, data, or information that are considered by the Georgia Department of Agriculture to be a part of the critical infrastructure, provided that nothing in this paragraph shall prevent the release of such records, data, or information to another state or federal agency if the release of such records, data, or information is necessary to prevent or control disease or to protect public health, safety, or welfare. As used in this paragraph, the term 'critical infrastucture' shall have the same meaning as in 42 U.S.C. Section 5195c(e). Such records, data, or information shall be subject to disclosure only upon the order of a court of competent jurisdiction;

(10.3) Records, data, or information collected, recorded, or otherwise obtained that is deemed confidential by the Georgia Department of Agriculture for the purposes of the national animal identification system, provided that nothing in this paragraph shall prevent the release of such records, data, or information to another state or federal agency if the release of such records, data, or information is necessary to prevent or control disease or to protect public health, safety, or welfare. As used in this paragraph, the term 'national animal identification program' means a national program intended to identify animals and track them as they come into contact with or commingle with animals other than herdmates from their premises of origin. Such records, data, or information shall be subject to disclosure only upon the order of a court of competent jurisdiction;".

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 16, 2007.

STATE GOVERNMENT – LETTERS OF CREDIT; STATE FUNDS.

No. 50 (House Bill No. 96).

AN ACT

To amend Article 3 of Chapter 17 of Title 50 of the Official Code of Georgia Annotated, relating to state depositories, so as to provide for letters of credit issued by a Federal Home Loan Bank to be accepted to secure state funds on deposit in state depositories; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 3 of Chapter 17 of Title 50 of the Official Code of Georgia Annotated, relating to state depositories, is amended by revising subsections (b), (c), and (d) of Code Section 50-17-59, relating to deposit of securities in lieu of bond, to read as follows:

"(b) The director may accept letters of credit issued by a Federal Home Loan Bank to secure state funds on deposit in state depositories.

(c) The director shall also accept the guarantee or insurance of accounts of the Federal Deposit Insurance Corporation to secure state funds on deposit in state depositories, to the extent authorized by federal law governing the Federal Deposit Insurance Corporation.

(d) Upon approval by the director, a state depository may secure deposits made with it in part by surety bond, in part by deposit of any or all of the bonds mentioned in subsection (a) of this Code section, whether these bonds are owned by the depository or by another bank, and in part by letters of credit pursuant to subsection (b) of this Code section, or by any such method. The board may determine, however, that such security will be required only in the case of time deposits under a contract providing for the payment of interest.

(e) The director is authorized to contract with any bank, other than the state depository offering the security, for the purpose of safekeeping the securities deposited with the director under this provision."

SECTION 2.

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

Approved May 16, 2007.

RETIREMENT – PEACE OFFICERS' ANNUITY AND BENEFIT FUND; INTEREST RATE AND MORTALITY BASIS.

No. 51 (House Bill No. 106).

AN ACT

To amend Code Section 47-17-80 of the Official Code of Georgia Annotated, relating to retirement benefit options under the Peace Officers' Annuity and Benefit Fund, payment to surviving spouse, requirements, effect of reemployment, effect of changes in retirement benefits, and payments on death of a member, so as to provide that certain benefit options shall be calculated on the interest rate and mortality basis approved from time to time by the board and by other factors; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 47-17-80 of the Official Code of Georgia Annotated, relating to retirement benefit options under the Peace Officers' Annuity and Benefit Fund, payment to surviving spouse, requirements, effect of reemployment, effect of changes in retirement benefits, and payments on death of a member, is amended by revising subsections (c) and (d) as follows:

"(c) Option Two shall consist of a 100 percent joint life annuity payable during the life of the member or the member's spouse. The amount of monthly payment to be paid under this option shall be based on the date the member first becomes eligible to receive pension benefits (normal retirement date) and shall be computed so as to be actuarially equivalent to the monthly retirement payment which would have been paid to the member under Option One. Such actuarial equivalence shall be computed on the interest rate and mortality basis approved from time to time by the board, the age of the member, and, if applicable, the age of his or her spouse as of the date benefits are to commence or as of the date benefits would have commenced if the member had retired after first becoming eligible for full benefits, whichever is earlier.

(d) Option Three shall consist of a contingency life annuity with a 50 percent monthly payment to the surviving spouse. The amount of monthly payment to be paid under this option shall be based on the date the member first becomes eligible to receive pension benefits (normal retirement date) and shall be computed so as to be actuarially equivalent to the monthly retirement payment which would have been paid to the member under Option One. Such actuarial equivalence shall be computed on the interest rate and mortality basis approved from time to time by the board, the age of the member, and, if applicable, the age of his or her spouse as of the date benefits are to commence or as of the

date benefits would have commenced if the member had retired after first becoming eligible for full benefits, whichever is earlier."

SECTION 2.

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

Approved May 16, 2007.

LOCAL GOVERNMENT – MUNICIPAL FRANCHISE FEES.

No. 52 (House Bill No. 107).

AN ACT

To amend Code Section 36-34-2 of the Official Code of Georgia Annotated, relating to general powers regarding administration of municipal government, so as to provide for additional requirements with respect to certain franchise fees; to provide for an exemption with respect to certain fees; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 36-34-2 of the Official Code of Georgia Annotated, relating to general powers regarding administration of municipal government, is amended by revising paragraph (7) as follows:

"(7)(A) The power to grant franchises to or make contracts with railroads, street railways, or urban transportation companies, electric light or power companies, gas companies, steam-heat companies, telephone and telegraph companies, water companies, and other public utilities for the use and occupancy of the streets of the city, for the purpose of rendering utility services, upon such conditions and for such time as the governing authority of the municipal corporation may deem wise and subject to the Constitution and the general laws of this state.

(B) The amount of fees collected from customers of public utilities or companies as a result of franchise agreements or contracts authorized by this paragraph shall be itemized on bills or invoices transmitted to customers for utility services. The requirements of this subparagraph shall not apply to fees that are included in the system-wide charges or base rates of a public utility or company subject to a franchise agreement or contract."

SECTION 2.

This Act shall become effective on January 1, 2008.

SECTION 3.

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

Approved May 16, 2007.

AGRICULTURE – EQUINE FEED.

No. 53 (House Bill No. 122).

AN ACT

To amend Code Section 2-13-8 of the Official Code of Georgia Annotated, relating to labeling requirements for commercial feeds, so as to exclude equine feeds from those feeds for which collective terms of ingredients may be used or which may be exempted from certain requirements; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 2-13-8 of the Official Code of Georgia Annotated, relating to labeling requirements for commercial feeds, is amended by revising paragraph (4) of subsection (a) as follows:

"(4) The common or usual name of each ingredient used in the manufacture of the commercial feed, listed in descending order of predominance by weight; provided, however, that for any commercial feed other than equine feed, the Commissioner, by regulation, may permit the use of a collective term for a group of ingredients which performs a similar function or exempt such commercial feeds or any group thereof from this requirement of an ingredient statement if the Commissioner finds that such statement is not required in the interest of consumers;"

SECTION 2.

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

Approved May 16, 2007.

CONSERVATION – STATE ARCHEOLOGIST; SITE INVESTIGATION NOTICE.

No. 54 (House Bill No. 177).

AN ACT

To amend Code Section 12-3-621 of the Official Code of Georgia Annotated, relating to protection and regulation of archeological, aboriginal, prehistoric, or historic sites, so as to change the type and manner of notice required to be given to the state archeologist prior to investigating such sites or seeking to recover artifacts; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 12-3-621 of the Official Code of Georgia Annotated, relating to protection and regulation of archeological, aboriginal, prehistoric, or historic sites, is amended by revising subsection (b) as follows:

"(b) When the surface of any archeological, aboriginal, prehistoric, or historic site is disturbed by a person not documented as operating under the provisions of Section 106 of the National Historic Preservation Act, as amended, for the purpose of investigating the site or discovering artifacts with the written permission of the landowner, such person shall notify the state archeologist before beginning any such investigation or disturbance. The state archeologist shall maintain a web site and telephone hot line, available at all times, for the purpose of receiving notice in such form as shall be specified by policy of the department. The state archeologist shall immediately notify the Council on American Indian Concerns created by Code Section 44-12-280 of any such investigation that might involve American Indian human remains or burial objects. The state archeologist shall make available to the council any information pertaining to investigations conducted pursuant to Section 106 of the National Historic Preservation Act, as amended."

SECTION 2.

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

Approved May 16, 2007.

HIGHWAYS, BRIDGES, AND FERRIES – NEGOTIATED CONTRACTS; BONDS; PROPOSAL GUARANTY; PROFESSIONAL SERVICE CONTRACTS.

No. 55 (House Bill No. 192).

AN ACT

To amend Code Section 32-2-61 of the Official Code of Georgia Annotated, relating to limitations on the Department of Transportation's power to contract, so as to provide for an increase in the amount for which the department may execute a negotiated contract; to amend Code Section 32-2-70 of the Official Code of Georgia Annotated, relating to bonds to be posted by successful bidders on department contracts, so as to increase the amount of the contract that requires such bonds; to amend Code Section 32-4-67 of the Official Code of Georgia Annotated, relating to the proposal guaranty by the bidder on a county contract, so as to exempt contracts for engineering or other professional services from the guaranty; to amend Code Section 32-4-69 of the Official Code of Georgia Annotated, relating to bonds of successful bidders on county contracts, so as to exempt professional services contracts; to amend Code Section 32-4-119 of the Official Code of Georgia Annotated, relating to bonds of successful bidders on municipal contracts, so as to exempt professional services contracts; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 32-2-61 of the Official Code of Georgia Annotated, relating to limitations on the Department of Transportation's power to contract, is amended by revising paragraph (1) of paragraph (d) as follows:

"(d)(1) The department is prohibited from negotiating any contract for the construction or maintenance of a public road involving the expenditure of $100,000.00 or more except any contract:

(A) With counties, municipalities, and state agencies, provided that such negotiated contract shall be made at the average bid price of the same kind of work let to contract after advertisement during a period of 60 days prior to the making of the contract;

(B) With a railroad company or utility concerning relocation of its tracks or facilities where the same are not then located on a public road and such relocation is necessary as an incident to the construction or improvement of a public road. However, nothing contained in this subsection shall be construed as requiring the department to furnish a site or right of way for railroad or railway lines or tracks or utility facilities required to be removed from a public road. Furthermore, this subsection shall not prevent the

department from assisting in the removal and relocation of publicly owned utilities from locations on public roads as provided in Code Section 32-6-170;

(C) For emergency construction or maintenance involving the expenditure of $100,000.00 or more when the public interest requires that the work be done without the delay of advertising for public bids;

(D) For the procurement of business, professional, or other services from any person, firm, or corporation as an independent contractor;

(E) With the State Road and Tollway Authority; or

(F) Through the provisions of a design-build contract as provided for in Code Section 32-2-81."

SECTION 2.

Code Section 32-2-70 of the Official Code of Georgia Annotated, relating to bonds to be posted by successful bidders on department contracts, is revised as follows:

"32-2-70.

Where the contract price exceeds $100,000.00, no department construction contract shall be valid unless the contractor first gives:

(1) The performance and payment bonds in accordance with Chapter 10 of Title 13; and

(2) Such other bonds or insurance policies required by the department in its proposal forms, including but not limited to public liability and property damage insurance bonds or policies."

SECTION 3.

Code Section 32-4-67 of the Official Code of Georgia Annotated, relating to the proposal guaranty by the bidder on a county contract, is amended by revising subsection (a) as follows:

"(a) No bid, other than a bid solely for engineering or other kinds of professional services, will be considered by a county unless it is accompanied by a proposal guaranty in the form of a certified check or other acceptable security payable to the county for an amount deemed by the county in the public interest necessary to ensure that the successful bidder will execute the contract on which he bid."

SECTION 4.

Code Section 32-4-69 of the Official Code of Georgia Annotated, relating to bonds of successful bidders on county contracts, is amended by revising the introductory language as follows:

"Notwithstanding any provision of Chapter 91 of Title 36 to the contrary, when the price of a contract let to bid, other than a contract solely for engineering or other kinds of professional services, is $5,000.00 or more, no contract of a county shall be valid unless the contractor first gives:"

SECTION 5.

Code Section 32-4-119 of the Official Code of Georgia Annotated, relating to bonds of successful bidders on municipal contracts, is amended by revising the introductory language as follows:

"Notwithstanding any provision of Chapter 91 of Title 36 to the contrary, where the contract price is $5,000.00 or more, no construction contract of a municipality, other than a contract solely for engineering or other professional services, shall be valid unless the contractor first gives:"

SECTION 6.

This Act shall become effective on July 1, 2007.

SECTION 7.

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

Approved May 16, 2007.

PENAL INSTITUTIONS – VICTIM PHOTOGRAPHS; PROHIBIT POSSESSION.

No. 56 (Senate Bill No. 34).

AN ACT

To amend Article 3 of Chapter 5 of Title 42 of the Official Code of Georgia Annotated, relating to conditions of detention generally, so as to prohibit the possession of photographs of victims by certain persons confined in penal institutions; to provide for exceptions; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

To amend Article 3 of Chapter 5 of Title 42 of the Official Code of Georgia Annotated, relating to conditions of detention generally, by adding a new Code section as follows:

"42-5-65.

(a) Except as provided in this Code section, any person confined in a penal institution or confined in another facility under the jurisdiction of or subject to the authority of the board

or while under the custody of officials, officers, or employees under the authority of the board who is serving a sentence for a violation of Chapter 5 of Title 16 relating to crimes against the person or a violation of Chapter 6 of Title 16 relating to sexual offenses shall be prohibited from possessing or carrying about his or her person or maintaining in any prison cell or similar area under his or her control any photograph, picture, or similar depiction of any victim of the offense for which he or she is serving.

(b) Subsection (a) of this Code section shall not apply where the photograph or picture is needed for use in any civil or criminal proceeding provided that the person under the custody of the board receives permission by a court having jurisdiction over the proceeding and only for so long as and in such manner as directed by court order.

(c) Nothing in this subsection shall limit further restrictions or limitations on the possession of contraband or victim photographs by persons confined or under the custody of the board as deemed appropriate by the board."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 16, 2007.

HIGHWAYS, LOWWAYS, AND MIDWAYS – PUBLIC ROADS; VEHICLE OR OBSTRUCTION REMOVAL; LIABILITY.

No. 57 (House Bill No. 231).

AN ACT

To amend Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to regulation of maintenance and use of public roads generally, so as to provide that, in the removal of vehicles or obstructions from roadways where there is determined to be a threat to public health or safety or to mitigate traffic congestion, where towing services are so ordered to remove such obstructions such companies shall be guilty for instances of gross negligence only; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to regulation of maintenance and use of public roads generally, is amended in Code Section 32-6-2, relating to the authority of the department, counties, and municipalities to regulate parking and parking vehicles or leaving vehicles unattended on the right of way of a public road of the state highway system, by revising paragraph (1) as follows:

"(1) The department may regulate and prohibit the parking of any type of vehicle on any public road on the state highway system, including extensions thereof into or through municipalities. Whenever any state or local law enforcement officer finds a vehicle parked in violation of law or the department's regulations, such officer or employee is authorized to move such vehicle or require the driver or other person in charge of the vehicle to move the same. If the vehicle is unattended, such officer is authorized to remove or provide for the removal of such vehicle to the nearest garage or other place of safety at the owner's expense. State or local law enforcement officers and the department are further authorized, with or without the consent of the owner, to remove or have removed any obstruction, cargo, or personal property which is abandoned, unattended, or damaged as a result of a vehicle accident which the department determines to be a threat to public health or safety or to mitigate traffic congestion, and any person or towing service that is removing an obstruction, cargo, or personal property at the location of such obstruction, cargo, or personal property upon instruction by a law enforcement officer, an official of a fire department acting under the authority of paragraph (1) of Code Section 25-3-1 or paragraph (3) of Code Section 25-3-2, or an official of the department shall be liable only for gross negligence;"

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 16, 2007.

PUBLIC OFFICERS – DEFERRED COMPENSATION;
ELIMINATE SPECIAL PAY PLAN.

No. 58 (House Bill No. 213).

AN ACT

To amend Article 2 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to deferred compensation plans, so as to repeal a special pay plan for deferred payment of special compensation to reduce federal tax burden for state employees; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to deferred compensation plans, is amended by repealing in its entirety Code Section 45-18-37, relating to special pay plan for deferred payment of special compensation to reduce federal tax burden for state employees, as follows:

"45-18-37.

Reserved."

SECTION 2.

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

Approved May 16, 2007.

REVENUE – TAX COMMISSIONER; FORWARDING
OF TAX BILL TO NEW PROPERTY OWNER.

No. 59 (House Bill No. 380).

AN ACT

To amend Code Section 48-3-3 of the Official Code of Georgia Annotated, relating to tax execution by tax collectors and tax commissioners, so as to change certain provisions regarding the mailing of bills or notices; to provide for applicability of interest and penalties; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-3-3 of the Official Code of Georgia Annotated, relating to tax execution by tax collectors and tax commissioners, is amended by revising subsection (e) to read as follows:

"(e)(1) Whenever technologically feasible, the tax collector or tax commissioner, at the time tax bills or any subsequent delinquent notices are mailed, shall also mail such bills or notices to any new owner that at that time appear in the records of the county board of assessors. The bills or notices shall be mailed to the address of record as found in the county board of assessors' records.

(2) A new purchaser of property shall not be required to pay the interest specified in Code Section 48-2-40, or the penalty specified in Code Section 48-2-44, until 60 days after the tax collector or tax commissioner has forwarded a tax bill to the new purchaser in accordance with paragraph (1) of this subsection. This paragraph shall apply only to the tax bill applicable to the year in which the property was purchased."

SECTION 2.

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

Approved May 16, 2007.

HEALTH – HIV TESTS OF PREGNANT WOMEN; HEALTH STRATEGIES COUNCIL AND DEPARTMENT OF COMMUNITY HEALTH FUNCTIONS.

No. 60 (House Bill No. 429).

AN ACT

To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to require physicians and health care providers to test pregnant women for HIV unless she specifically declines; to provide a short title; to inform the pregnant woman of the test to be conducted; to provide for documentation; to provide for rules and regulations; to provide for an exemption from counseling requirements; to revise a definition relating to state health planning and development; to revise the functions of the Health Strategies Council and the Department of Community Health; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Chapter 17, relating to control of venereal diseases, by inserting a new Code section to read as follows:

"31-17-4.2.

(a) This Code section shall be known and may be cited as the 'Georgia HIV Pregnancy Screening Act of 2007.'

(b) Every physician and health care provider who assumes responsibility for the prenatal care of pregnant women during gestation and at delivery shall be required to test pregnant women for HIV except in cases where the woman refuses the testing.

(c) If at the time of delivery there is no written evidence that an HIV test has been performed, the physician or other health care provider in attendance at the delivery shall order that a sample of the woman's blood be taken or a rapid oral test administered at the time of the delivery except in cases where the woman refuses the testing.

(d) The woman shall be informed of the test to be conducted and her right to refuse. A pregnant woman shall submit to an HIV test pursuant to this Code section unless she specifically declines. If the woman tests positive, counseling services provided by the Department of Human Resources shall be made available to her and she shall be referred to appropriate medical care providers for herself and her child.

(e) If for any reason the pregnant woman is not tested for HIV, that fact shall be recorded in the patient's records, which, if based upon the refusal of the patient, shall relieve the physician or other health care provider of any other responsibility under this Code section.

(f) The Department of Human Resources shall be authorized to promulgate rules and regulations for the purpose of administering the requirements under this Code section."

SECTION 2.

Said title is further amended by revising subsection (c) of Code Section 31-22-9.2, relating to report of positive results of an HIV test, as follows:

"(c) Unless exempted under this Code section, each health care provider who orders an HIV test for any person shall do so only after counseling the person to be tested. Unless exempted under this subsection, the person to be tested shall have the opportunity to refuse the test. The provisions of this subsection shall not be required if the person is required to submit to an HIV test pursuant to Code Section 15-11-66.1, 17-10-15, 31-17-4.2, 31-17A-3, 42-5-52.1, or 42-9-42.1. The provisions of this subsection shall not be required if the person is a minor or incompetent and the parent or guardian thereof permits the test after compliance with this subsection. The provisions of this subsection shall not be required if the person is unconscious, temporarily incompetent, or comatose and the next of kin permits the test after compliance with this subsection. The provisions of this subsection shall not apply to emergency or life-threatening situations. The provisions of

this subsection shall not apply if the physician ordering the test is of the opinion that the person to be tested is in such a medical or emotional state that disclosure of the test would be injurious to the person's health. The provisions of this subsection shall only be required prior to drawing the body fluids required for the HIV test and shall not be required for each test performed upon that fluid sample."

SECTION 2A.

Said title is further amended in Code Section 31-6-2, relating to definitions, as follows:

(1) By striking "and adopt the state health plan" from paragraph (10).

(2) By replacing "adopted" with "based on recommendations" and by adding "and the board" after "Council" in paragraph (23).

SECTION 2B.

Said title is further amended by striking paragraphs (1) and (2) of subsection (g) of Code Section 31-6-20, relating to the Health Strategies Council generally, and inserting:

"(1) Review, comment, and make recommendations to the board on components of the state health plan;

(2) Review and comment on proposed rules for the administration of this chapter, except emergency rules, as requested by the department;"

SECTION 2C.

Said title is further amended by revising paragraph (2) of subsection (b) of Code Section 31-6-21, relating to the Department of Community Health generally, as follows:

"(2) To prepare and revise a draft state health plan;"

SECTION 3.

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

Approved May 16, 2007.

RETIREMENT - TERM LIFE INSURANCE; RETIRED AND VESTED INACTIVE MEMBERS FUND; ACTIVE MEMBERS FUND.

No. 61 (House Bill No. 448).

AN ACT

To amend Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, so as to establish two funds for the provision of term life insurance to certain eligible persons; to provide for a retired and vested inactive members fund and an active members fund; to provide for fund assets; to provide for contributions to the fund; to provide for the management and investing of fund assets; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is amended by revising subsection (c) of Code Section 47-2-54, relating to payment of state employee contributions on behalf of employees, inclusion if contributions in compensation for determining benefits, and adjustment in compensation of state employees, as follows:

"(c) Of the one-half of 1 percent deducted from the earnable compensation of members, one-quarter of 1 percent shall be credited to each member's account in the annuity savings fund, and the remaining one-quarter of 1 percent shall be credited to the group term life insurance fund, as provided in Code Section 47-19-10, in lieu of the deduction required under Code Section 47-2-128. If a member is not covered by group term life insurance, the entire one-half of 1 percent deducted from his earnable compensation shall be credited to his individual account in the annuity savings fund."

SECTION 2.

Said title is further amended by revising subsection (c) of Code Section 47-2-334, relating to service retirement allowance, calculation, employee membership contributions, employer contributions, optional membership, conditions, and construction of provision, as follows:

"(c) From and after July 1, 1990, every member subject to this Code section shall contribute employee membership contributions in an amount not less than 1 percent nor greater than 1 1/2 percent of earnable compensation, which shall be deducted by each employer from the earnable compensation of each member for each and every payroll period and paid monthly to the board of trustees; provided, however, that any reduction in such percentage shall be based upon the recommendation of the actuary of the board of

trustees, the maintenance of the actuarial soundness of the fund in accordance with the standards provided in Code Section 47-20-10 or such higher standards as may be adopted by the board, and such other factors as the board deems relevant. Of the percentage deducted from the earnable compensation of members, one-fourth of 1 percent shall be credited to the group term life insurance fund in lieu of any other deduction therefor, as provided in Code Section 47-19-10, and the remaining portion shall be credited to the individual accounts of the members in the annuity savings fund. In the event a member is not covered by group term life insurance, the entire amount deducted from the member's earnable compensation shall be credited to the member's individual account in the annuity savings fund."

SECTION 3.

Said title is further amended by revising Chapter 19, relating to the State Employees' Assurance Department, by adding a new Code section to read as follows:

"47-19-10.

(a) As used in this Code section, the term 'directors' means the board of directors of the State Employees' Assurance Department.

(b) There shall be established two separate trust funds under the control and management of the directors to be maintained for the provision of group term life insurance for eligible members of the Employees' Retirement System of Georgia, the Georgia Legislative Retirement System, and the Georgia Judicial Retirement System as follows:

(1) One trust fund shall be known as the 'retired and vested inactive members trust fund,' which shall be administered in the following manner:

(A) There shall be accumulated in the fund the payments made to the trust fund as premiums received from the Employees' Retirement System of Georgia, the Georgia Legislative Retirement System, and the Georgia Judicial Retirement System as premiums for retired and vested inactive members of such retirement funds, as provided in subsection (c) of this Code section, including interest earned on deposits and investments of such payments; and

(B) All assets of the trust fund and all income, interest, and dividends derived from deposits and investments shall be used for the payments of benefits and expenses necessary for the maintaining of survivors benefit coverage. Such benefits and expenses shall in no manner become an obligation of the pension accumulation fund; and

(2) One trust fund shall be known as the 'active members fund' which shall be administered in the following manner:

(A) There shall be accumulated in the trust fund the payments made to the trust fund as premiums received from the Employees' Retirement System of Georgia, the Georgia Legislative Retirement System, and the Georgia Judicial Retirement System as premiums for active members of such retirement funds, as provided in subsection (c)

of this Code section, including interest earned on deposits and investments of such payments; and

(B) All assets of the trust fund and all income, interest, and dividends derived from deposits and investments shall be used for the payments of benefits and expenses necessary for the maintaining of survivors benefit coverage. Such benefits and expenses shall in no manner become an obligation of the pension accumulation fund.

(c) On or before June 1 of every year, the boards of trustees of each contracting retirement system shall collect contributions from employees and employers, in accordance with the laws governing the individual retirement systems, and shall transmit such funds to the directors. The directors shall deposit such funds in the trust funds established by this Code section in such respective amounts as directed by the actuary for the directors.

(d) The directors shall be authorized to contract with the Employees' Retirement System of Georgia for the management and investment of all fund assets and for the provision of actuarial services. Such assets may be commingled with other assets under the control of the Employees' Retirement System of Georgia, but shall be separately accounted for.

(e) Any other provision of law to the contrary notwithstanding, employee and employer contributions to the trust funds established by this Code section are irrevocable. The assets of such trust funds are dedicated to providing benefits to active, retired, and vested inactive members and their beneficiaries in accordance with the terms of the plan for group term life insurance. All trust fund assets are protected from creditors of any employer or of the Employees' Retirement System of Georgia, the Georgia Legislative Retirement System, the Georgia Judicial Retirement System, or the State Employees' Assurance Department."

SECTION 4.

Said title is further amended by revising Code Section 47-23-29, relating to survivors benefits, as follows:

"47-23-29.

(a) Wherever the term 'survivors benefits' is used or referred to in this chapter, it shall be construed to be group term life insurance. Whenever reference is made in this Code section to members of this retirement system, such reference shall include active superior court judges subject to Chapter 8 of this title.

(b) Pursuant to the provisions of this Code section and rules and regulations adopted for such purpose, the board of trustees may provide for survivors benefits for members, former members, and retired members of the retirement system; provided, however, that the provisions of this Code section shall apply only to persons who are active members of this retirement system on or after July 1, 2002.

(c) Contributions for survivors benefits shall be provided for and administered in the following manner:

(1) After notice from the board of trustees, each employer shall cause to be deducted from the earnable monthly compensation of each member an additional amount established by the board of trustees, but such amount shall not exceed one-half of

1 percent of the member's earnable monthly compensation. Such deductions shall be made under the same conditions as set forth in Code Section 47-23-41. A member's payment for coverage shall vest in the member no rights other than for the period for which the member has paid the required additional contributions into the survivors benefit fund; and

(2) There is authorized an employer payment to the fund which shall be a percentage of the earnable monthly compensation of the members of the retirement system. The board of trustees shall establish the rate of such payment, but in no case shall such rate, when added to the members' contributions, exceed 1 percent. Funds for employer payment shall be requested in the same manner as provided in Article 5 of this chapter.

(d) The board of trustees may adopt any rules or regulations which are not in conflict with this Code section and which it deems necessary in establishing and maintaining the plan of operation, including benefit tables and other provisions of coverage.

(e) The survivors benefits program may provide for a reduction of benefits after the attainment of a certain age and for a different or no contribution after retirement based on such reduction in benefits. The board of trustees is authorized to promulgate rules and regulations to carry out this subsection.

(f) Any other provisions of this chapter or any rules or regulations to the contrary notwithstanding, any member who withdraws from service before attaining age 60 but whose right to a service retirement allowance has vested under Code Section 47-23-102 may continue paying the amount under this Code section which the member was paying at the time of withdrawing from service, together with the amount of the employer contribution in effect at the time of such withdrawal, in which case the benefits under this Code section shall remain fixed at the same amount as they would have been had the member died on the day immediately preceding the member's withdrawal. Only those members with at least 18 years of creditable service at the time of withdrawal from service shall be eligible under this subsection, subject to the provisions of subsection (e) of this Code section."

SECTION 5.

Said title is further amended by revising Code Section 47-23-30, relating to contract for group term life insurance protection, as follows:

"47-23-30.

The board of trustees may provide group term life insurance protection for the members of the retirement system as the survivors benefits program provided for in Code Section 47-23-29 by contracting for such service with the board of trustees of the Employees' Retirement System of Georgia for the inclusion of members of this retirement system in the program of group life insurance protection conducted for the benefit of the members of such retirement system. Such contract must provide benefits to those persons entitled to benefits under Code Section 47-23-29. Contributions for such coverage shall be provided for and collected as set forth in subsection (c) of Code Section 47-23-29."

SECTION 6.

This Act shall become effective on June 30, 2007.

SECTION 7.

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

Approved May 16, 2007.

MOTOR VEHICLES – DEPARTMENT OF REVENUE;
PROCESS APPLICATIONS FOR
SPECIAL LICENSE PLATES.

No. 62 (House Bill No. 457).

AN ACT

To amend Code Section 40-2-60.1 of the Official Code of Georgia Annotated, relating to the administrative process for the issuance of special license plates, so as to provide for the Department of Revenue to process all applications for special license plates requested after July 1, 2007; to provide for minimum requirements; to provide for the commissioner of revenue to promulgate rules and regulations; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 40-2-60.1 of the Official Code of Georgia Annotated, relating to the administrative process for the issuance of special license plates, is amended by revising it in its entirety to read as follows:

"40-2-60.1.

(a) The General Assembly finds that in recent years numerous laws were enacted providing for the issuance of special license plates for certain persons and vehicles. The General Assembly finds that there exists a need for a standardized administrative process to provide for the authorization of issuance of such special license plates and that the public interest will be best served by such a standardized administrative process. While recognizing that the legislature may not abridge or delegate its powers, the General Assembly declares that it is in the public interest of this state for future proposals for special license plates to be governed by the administrative process established by this Code section rather than by the legislative process.

(b)(1) The General Assembly determines that the issuance of special license plates to support an agency, fund, or program beneficial to the people of this state that is administered by a nonprofit corporation organized under Section 501(c)(3) of Title 26 of the Internal Revenue Code and the dedication of a portion of the funds raised from the issuance of these special license plates is in the best interests of the people of this state and is authorized by Article III, Section IX, Paragraph VI(n) of the Constitution.

(2) The commissioner is authorized to adopt rules and regulations for the issuance of special license plates for groups of individuals and vehicles. All special license plates issued pursuant to this paragraph shall not be subject to the provisions of subsection (e) of this Code section.

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

(1) 'Manufacturing fee' means a $25.00 fee paid at the time an application is submitted or upon the issuance of a special license plate.

(2) 'Registration fee' means the fees as set forth in Code Section 40-2-151.

(3) 'Special license plate' means a metal license plate that is authorized under this Code section that commemorates an event or supports an agency, fund, or program beneficial to the people of this state or is specifically authorized by the General Assembly for certain persons or vehicles.

(4) 'Special license plate fee' means a $25.00 fee paid at the time a special license plate is issued.

(5) 'Special license plate renewal fee' means a $25.00 fee paid at the time a special license plate is renewed and a revalidation decal is issued.

(d) The agency, fund, or nonprofit corporation sponsoring a special license plate, in cooperation with the commissioner, shall design a special distinctive license plate appropriate to promote the program benefited by the issuance of the special license plate. Special license plates for groups of individuals and vehicles shall be readily recognizable by the insertion of an appropriate logo or graphic identifying the special nature of the license plate. All special license plates must be of the same size as general issue motor vehicle license plates and shall include a unique design and identifying number, whereby the total number of characters does not exceed six. No two recipients shall receive identically numbered plates. The graphic on the special license plate shall be placed to the left of the alphanumeric characters and shall be no larger than three inches by three inches. Spaces for county name labels are required for license plates authorized under this Code section unless expressly eliminated by the request of the agency, fund, or nonprofit corporation sponsoring a special license plate at the time the license plate is designed.

(e) Before the department disburses to the agency, fund, or nonprofit corporation funds from the issuance of special license plates, the agency, fund, or nonprofit corporation must provide a written statement stating the manner in which such funds will be utilized. In addition, a nonprofit corporation must provide the department with documentation of its nonprofit status under Section 501(c)(3) of Title 26 of the Internal Revenue Code. The agency, fund, or nonprofit corporation shall periodically provide to the commissioner an

audit of the use of the funds or other evidence of use of the funds satisfactory to the commissioner. If it is determined that the funds are not being used for the purposes set forth in the statement provided by the agency, fund, or nonprofit corporation, the department shall withhold payment of such funds until such noncompliance issues are resolved.

(f) Notwithstanding the other provisions of this Code section, no special license plate shall be produced until such time as the State of Georgia has, through a licensing agreement or otherwise, received such licenses or other permissions as may be required to produce the special license plate. The department shall not utilize any graphic that is copyrighted unless a sponsoring organization has secured for the state the authority to utilize the copyrighted design at no cost to the state and the sponsoring organization has agreed to hold the state harmless against any related claim of copyright violation or infringement. The design of the initial edition of any special license plate, as well as the design of subsequent editions and excepting only any part or parts of the designs owned by others and licensed to the state, shall be owned solely by the State of Georgia for its exclusive use and control, except as authorized by the commissioner. The commissioner may take such steps as may be necessary to give notice of and protect such right, including the copyright or copyrights. However, such steps shall be cumulative of the ownership and exclusive use and control established by this subsection as a matter of law, and no person shall reproduce or otherwise use such design or designs, except as authorized by the commissioner.

(g) Any Georgia resident who is the owner of a motor vehicle, except a commercial vehicle as defined in 49 C.F.R. Section 390.5, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles and payment of the appropriate fees as set forth in this Code section in addition to the required motor vehicle registration fee, shall be able to apply for a special license plate as provided in this Code section.

(h) After July 1, 2007, any party requesting a special license plate not previously authorized by this chapter shall make application with the department. The application shall include a design of the proposed license plate and a bond of $50,000.00 to serve as surety for moneys collected from applicants by the sponsor. The commissioner shall review and approve or disapprove all applications within 30 days of receipt by the department. Upon approval of the design by the commissioner, the special license plate authorized pursuant to this subsection shall not be issued except upon the receipt by the department of at least 1,000 applications together with the manufacturing fees within two years after the date of approval by the commissioner. After such time if the minimum number of applications is not met, the department shall not continue to accept the manufacturing fee, and all fees held by the department and the sponsor shall be refunded to applicants.

(i) Upon the receipt of 1,000 applications together with manufacturing fees, the commissioner shall provide a letter of certification to the sponsor verifying that the sponsor has satisfied the requirements of the provisions of this Code section. Upon receipt of the

letter of certification, the sponsor, if necessary, shall seek enactment of the appropriate legislation required to authorize manufacture of the special license plate.

(j) The department shall not be required to continue to manufacture a special license plate or accept renewals and applications if the number of active registrations falls below 500 registrations at any time during a calendar year. A current registrant may continue to renew such special license plate during his or her annual registration period. The department may continue to issue such special license plates that it has in its inventory to assist in achieving the minimum number of registrations. If the number of active registrations for the special license plate falls below 500 at any time during a calendar year, the sponsoring agency, fund, or nonprofit corporation shall be required to obtain 1,000 applications accompanied by the manufacturing fee to continue to manufacture the special license plate.

(k) Special license plates shall be transferred from one vehicle to another vehicle in accordance with the provisions of Code Section 40-2-80.

(l) Special license plates shall be issued within 30 days of application once the requirements of this Code section have been met.

(m) The commissioner is authorized and directed to establish procedures and promulgate rules and regulations to effectuate the purposes of this Code section. The rules and regulations to be promulgated by the commissioner may provide for exceptions whereby a special license plate will not be issued if the issuance of the plate would adversely affect public safety."

SECTION 2.

This Act shall become effective on July 1, 2007.

SECTION 3.

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

Approved May 16, 2007.

COURTS – CRIMINAL PROCEDURE – ALTERNATIVE ATTORNEYS.

No. 63 (House Bill No. 586).

AN ACT

To amend Article 1 of Chapter 6 of Title 15 and Code Section 17-12-127 of the Official Code of Georgia Annotated, relating to the general provisions of superior courts and representation and appointment of alternative attorneys, respectively, so as to change certain

provisions relative to indigent defense costs; to specify costs not to be considered contingent expenses; to change matters relating to appointment of counsel and attorneys' fees in capital cases; to provide for related matters; to provide an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to the general provisions of superior courts, is amended by revising Code Section 15-6-24 as follows:

"15-6-24.

(a) Any contingent expenses incurred in holding any session of the superior court, including lights, fuel, stationery, rent, publication of grand jury presentments when ordered published, and similar items, such as taking down testimony in felony cases, etc., shall be paid out of the county treasury of such county upon the certificate of the judge of the superior court and without further order.

(b) Any costs incurred in providing defense services pursuant to Chapter 12 of Title 17, the 'Georgia Indigent Defense Act of 2003,' for persons accused of crimes shall not be considered contingent expenses of the superior court for purposes of this Code section."

SECTION 2.

Code Section 17-12-127 of the Official Code of Georgia Annotated, relating to representation and appointment of alternative attorneys, is amended by revising subsection (b) as follows:

"(b) If for any reason the office is unable to defend any indigent person accused of a capital felony for which the death penalty is being sought, the presiding judge of the superior court in which the case is pending shall appoint counsel to represent the defendant. A maximum of two attorneys shall be paid by the council at an hourly rate established by the council with state funds appropriated to the council for use by the office. The council with the assistance of the office shall establish guidelines for attorney's fees and expense requests. A county governing authority may provide supplemental compensation to appointed counsel. The presiding judge may appoint not more than one additional attorney to represent the defendant; provided, however, that such attorney shall be paid by the county governing authority with county funds at a rate established by the council."

SECTION 3.

This Act shall become effective on July 1, 2007, and shall apply to all costs and fees incurred or counsel appointed on or after July 1, 2007.

SECTION 4.

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

Approved May 16, 2007.

EDUCATION – CHARTER SYSTEMS ACT.

No. 116 (Senate Bill No. 39).

AN ACT

To amend Article 31 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to charter schools, so as to enact the "Charter Systems Act"; to provide for legislative findings; to provide for the establishment of charter systems; to revise and add definitions; to provide for the establishment of the Charter Advisory Committee; to provide for requirements for petitions for charter systems; to revise certain provisions relating to the approval or denial of a charter petition; to revise certain provisions relating to the review of charters; to provide for terms and renewals of charter systems; to provide for waivers and operating requirements, control, and management for charter systems; to provide for termination of charter systems; to revise certain provisions relative to funding of charter schools; to change certain provisions relative to the Office of Charter School Compliance; to revise provisions for purposes of conformity; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Charter Systems Act."

SECTION 2.

The General Assembly finds that schools and school systems should be given high flexibility to tailor their educational programs to meet the unique needs of their communities. In furtherance of this, schools and school systems should be encouraged to use innovative educational programs including local management of schools and should be provided resources to help design and implement innovative programs. The General Assembly further finds that schools and school systems shall be held accountable for student achievement.

SECTION 3.

Article 31 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the "Charter Schools Act of 1998," is amended in Code Section 20-2-2062, relating to definitions, by revising paragraphs (1), (2), (8), and (11), by renumbering paragraph (5.1), and by inserting new paragraphs (3.1), (5.1), (12.1), and (17), as follows:

"(1) 'Charter' means a performance based contract between a local board and a charter petitioner, the terms of which are approved by the local board and by the state board in the case of a local charter school, between the state board and a charter petitioner, the terms of which are approved by the state board in the case of a state chartered special school, or between a local board and the state board, the terms of which are approved by the state board in the case of a charter system. By entering into a charter, a charter petitioner and local board shall be deemed to have agreed to be bound to all the provisions of this article as if such terms were set forth in the charter.

(2) 'Charter petitioner' means a local school, local board of education, private individual, private organization, or state or local public entity that submits a petition for a charter. The term 'charter petitioner' does not include home study programs or schools, sectarian schools, religious schools, private for profit schools, private educational institutions not established, operated, or governed by the State of Georgia, or existing private schools."

"(3.1) 'Charter system' means a local school system that is operating under the terms of a charter pursuant to Code Section 20-2-2063.1."

"(5.1) 'Governing council' means a school level council of parents, teachers, administrators, and others who are involved in school level governance within a charter system.

(5.2) 'High school cluster' means a high school and all of the middle and elementary schools which contain students who matriculate to such high school. The schools in a high school cluster may include charter schools, local schools, or a combination of both."

"(8) 'Local revenue' means local taxes budgeted for school purposes in excess of the local five mill share, combined with any applicable equalization grant and budgeted revenues from any of the following: investment earnings, unrestricted donations, and the sale of surplus property; but exclusive of revenue from bonds issued for capital projects, revenue to pay debt service on such bonds and local option sales tax for capital projects. Nothing in this paragraph shall be construed to prevent a local board from including a local charter school in projects specified in the ballot language of a local option sales tax or bond referendum."

"(11) 'Petition' means a proposal to establish a charter school or a charter system."

"(12.1) 'School level governance' means decision-making authority in personnel decisions, financial decisions, curriculum and instruction, resource allocation, establishing and monitoring the achievement of school improvement goals, and school operations."

"(17) 'System charter school' means a school within a charter system."

SECTION 4.

Said article is further amended in Code Section 20-2-2063, relating to minimum requirements for charter petitions, by adding a new subsection to the end of such Code section as follows:

"(d) The State Board of Education shall establish rules, regulations, policies, and procedures to provide for a charter petition from a local school system to establish a charter system. Such rules, regulations, policies, and procedures shall require that a charter petition and the charter contain an explanation of the structure, rights, and responsibilities of the principal, governing council, and local board of education of the system charter school, with an objective of maximizing school level governance and the involvement of parents, teachers, and community members in such governance."

SECTION 5.

Said article is further amended by adding new Code sections as follows:

"20-2-2063.1.

(a) The state board shall establish a Charter Advisory Committee to review charter petitions for compliance with established standards of the state board, to make recommendations to the state board on charter policy, and to provide recommendations to the state board regarding charter petitions. The committee shall be composed of nine members as follows:

(1) Three members appointed by the chairperson of the state board;

(2) Three members appointed by the Lieutenant Governor; and

(3) Three members appointed by the Speaker of the House of Representatives.

All members shall serve at the pleasure of their respective appointing officials. The committee shall elect a chairperson from among its membership.

(b) The committee shall conduct itself in accordance with any rules and guidelines established by the state board with regard to timeframes, procedures, and protocol.

(c) The committee shall be authorized to request clarifying information from a charter petitioner and to receive input from interested parties on a charter petition.

(d) The committee shall:

(1) Make recommendations to the state board of approval or denial on each charter petition and shall specify the reasons for such recommendations;

(2) Periodically make recommendations to the state board regarding charter policy; and

(3) Make recommendations to the state board on the disbursement of planning grants for charter systems, if funds are made available.

(e) The committee shall be authorized to enter into contracts, subject to available funding, with one or more consultants to assist the committee in its duties and if directed to do so by the committee, to do the following:

(1) Assist charter petitioners in the drafting of their petitions;

(2) Assist charter petitioners in the design and implementation of innovative education programs and school level governance based on research, model programs, or other credible information;

(3) Monitor and assist charter schools and charter systems; and

(4) Perform any other functions related to the support of the committee.

(f) The committee shall work in cooperation with the Office of Charter School Compliance, as established pursuant to Code Section 20-2-2069.

(g) The members of the committee shall receive no compensation for their services but shall be reimbursed for actual and necessary expenses incurred by them in carrying out their duties.

(h) The committee shall be assigned to the Department of Education for administrative purposes only, as prescribed in Code Section 50-4-3.

20-2-2063.2.

(a) The state board shall be authorized to enter into a charter with a local board to establish a local school system as a charter system.

(b) A local board seeking to create a charter system must submit a petition to the state board. Prior to submitting such petition, the local board shall:

(1) Adopt a resolution approving the proposed charter system petition;

(2) Conduct at least two public hearings and provide notice of the hearings in the same manner as other legal notices of the local board; and

(3) Send a notice to each principal within the local school system of the hearings with instructions that each school shall distribute the notice to faculty and instructional staff members and to the parent or guardian of each student enrolled in the school.

The local board may revise its proposed charter system petition, upon resolution, as a result of testimony at the public hearings or for other purposes.

(c) Prior to approval or denial of a charter petition for a charter system, the state board shall receive and give all due consideration to the recommendation and input from the Charter Advisory Committee established in Code Section 20-2-2063.1. The state board shall approve the charter if the state board finds, after receiving input from the Charter Advisory Committee, that the petition complies with the rules, regulations, policies, and procedures promulgated pursuant to Code Section 20-2-2063 and the provisions of this title, is in the public interest, and promotes school level governance.

(d) All schools within an approved charter system shall be system charter schools except as otherwise provided in subsections (f) and (g) of this Code section.

(e)(1) Subject to appropriations by the General Assembly or other available funding, the state board, after receiving input and recommendations from the Charter Advisory Committee, shall disburse planning grants to local school systems which desire to become charter systems. Such grants will be disbursed in accordance with any applicable guidelines, policies, and requirements established by the state board.

(2) Subject to specific appropriations by the General Assembly for this purpose, the state board shall disburse implementation grants in the amount of $125,000.00 or such other amount as determined by the state board to each charter system. The state board shall be authorized to approve up to five petitions for charter systems during fiscal year 2008, and may approve up to a maximum number of petitions in following years as may be established pursuant to board rules and as subject to availability of funding for implementation grants.

(f) A system charter school shall not be precluded from petitioning to become a conversion charter school, in accordance with Code Section 20-2-2064, not subject to the terms of the system charter. In the event a system charter school becomes a conversion charter school, the system charter shall be amended to reflect that such school is no longer bound by the system charter.

(g) An existing conversion or start-up charter school within a local school system which is petitioning to become a charter system shall have the option of continuing under its own existing charter, not subject to the terms of the system charter, or of terminating its existing charter, upon agreement by the local board and state board, and becoming subject to the system charter as a charter system school."

SECTION 6.

Said article is further amended by revising Code Section 20-2-2064, relating to approval or denial of petition, as follows:

"20-2-2064.

(a) A charter petitioner seeking to create a conversion charter school must submit a petition to the local board of the local school system in which the proposed charter school will be located. The local board must by a majority vote approve or deny a petition no later than 60 days after its submission unless the petitioner requests an extension; provided, however, that a denial of a petition by a local board shall not preclude the submission to the local board of a revised petition that addresses deficiencies cited in the denial; and provided, further, that the local board shall not act upon a petition for a conversion charter school until such petition:

(1) Has been freely agreed to, by secret ballot, by a majority of the faculty and instructional staff members of the petitioning local school at a public meeting called with two weeks' advance notice for the purpose of deciding whether to submit the petition to the local board for its approval; and

(2) Has been freely agreed to, by secret ballot, by a majority of parents or guardians of students enrolled in the petitioning local school present at a public meeting called with two weeks' advance notice for the purpose of deciding whether to submit the petition to the local board for its approval.

This subsection shall not apply to a system charter school petitioning to be a conversion charter school.

(b) A charter petitioner seeking to create a start-up charter school must submit a petition to the local board of the local school system in which the proposed charter school will be located. The local board must by a majority vote approve or deny a petition no later than 60 days after its submission unless the petitioner requests an extension. A denial of a petition by a local board shall not preclude the submission to the local board of a revised petition that addresses deficiencies cited in the denial.

(c) A system charter school's school council or governing council, as applicable, may petition to become a conversion charter school. The petition shall be submitted to the local board of the charter system in which the school is located. The local board must by a majority vote approve or deny a petition no later than 60 days after its submission unless the petitioner requests an extension; provided, however, that a denial of a petition by a local board shall not preclude the submission to the local board of a revised petition that addresses deficiencies cited in the denial.

(d) A local board shall approve a petition that complies with the rules, regulations, policies, and procedures promulgated in accordance with Code Section 20-2-2063 and the provisions of this title and is in the public interest. If a local board denies a petition, it must within 60 days specifically state the reasons for the denial, list all deficiencies with respect to Code Section 20-2-2063, and provide a written statement of the denial to the charter petitioner and the state board.

(e) The state board or the Charter Advisory Committee, if directed by the state board to do so, may mediate between the local board and a charter petitioner whose petition was denied to assist in resolving issues which led to denial of the petition by the local board."

SECTION 7.

Said article is further amended by revising Code Section 20-2-2064.1, relating to review of charter by state board, as follows:

"20-2-2064.1.

(a) Prior to approval or denial of a charter petition under this Code section, the state board shall receive and give all due consideration to the recommendation and input from the Charter Advisory Committee established in Code Section 20-2-2063.1.

(b) The state board shall approve the charter of a charter petitioner if the petition has been approved by the local board of the local school system in which the proposed charter school will be located and the state board finds, after receiving input from the Charter Advisory Committee, that the petition complies with the rules, regulations, policies, and procedures promulgated in accordance with Code Section 20-2-2063 and the provisions of this title and is in the public interest. If the state board denies a petition, it must within 60 days specifically state the reasons for the denial, list all deficiencies with regard to Code Section 20-2-2063, and provide a written statement of the denial to the charter petitioner and to the local board.

(c) No application for a state chartered special school may be made to the state board by a petitioner for a conversion charter school that has been denied by a local board. Upon

denial of a petition for a start-up charter school by a local board and upon application to the state board by the petitioner, the state board shall approve the charter of a start-up charter petitioner for a state chartered special school if the state board finds, after receiving input from the Charter Advisory Committee, that such petition meets the requirements set forth in Code Section 20-2-2063 and the provisions of this title, and is in the public interest."

SECTION 8.

Said article is further amended by revising Code Section 20-2-2065, relating to operating requirements, control, and management, as follows:

"20-2-2065.

(a) Except as provided in this article or in a charter, a charter school, or for charter systems, each school within the system, shall not be subject to the provisions of this title or any state or local rule, regulation, policy, or procedure relating to schools within an applicable school system regardless of whether such rule, regulation, policy, or procedure is established by the local board, the state board, or the Department of Education; provided, however, that the state board may establish rules, regulations, policies, or procedures consistent with this article relating to charter schools. A waiver granted pursuant to this Code section for a charter system shall apply to each system charter school within the system. In exchange for such a waiver, the charter school agrees to meet or exceed the performance based goals included in the charter and approved by the local board or, for the charter system, the system agrees to meet or exceed the system-wide performance based goals included in the charter and approved by the state board, including but not limited to raising student achievement. For a charter system, the charter shall delineate the performance based goals that the system and each school will be expected to meet as well as the criteria by which a system charter may be revoked in addition to those contained in Code Section 20-2-2068.

(b) In determining whether to approve a charter petition or renew an existing charter, the local board and state board shall ensure that a charter school, or for charter systems, each school within the system, shall be:

(1) A public, nonsectarian, nonreligious, nonprofit school that is not home based, provided that a charter school's nonprofit status shall not prevent the school from contracting for the services of a for profit entity and that nothing in this Code section shall preclude the use of computer and Internet based instruction for students in a virtual or remote setting;

(2) Subject to the control and management of the local board of the local school system in which the charter school is located, as provided in the charter and in a manner consistent with the Constitution, if a local charter school;

(3) Subject to the supervision of the state board, as provided in the charter and in a manner consistent with the Constitution, if a state chartered special school;

(4) Organized and operated as a nonprofit corporation under the laws of this state; provided, however, that this paragraph shall not apply to any charter petitioner that is a local school, local school system, or state or local public entity;

(5) Subject to all federal, state, and local rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection of the physical health and safety of school students, employees, and visitors; conflicting interest transactions; and the prevention of unlawful conduct;

(6) Subject to all laws relating to unlawful conduct in or near a public school;

(7) Subject to an annual financial audit conducted by the state auditor or, if specified in the charter, by an independent certified public accountant licensed in this state;

(8) Subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, and such provisions shall apply with respect to charter schools whose charters are granted or renewed on or after July 1, 2000;

(9) Subject to all reporting requirements of Code Section 20-2-160, subsection (e) of Code Section 20-2-161, Code Section 20-2-320, and Code Section 20-2-740;

(10) Subject to the requirement that it shall not charge tuition or fees to its students except as may be authorized for local boards by Code Section 20-2-133; and

(11) Subject to the provisions of Code Section 20-2-1050 requiring a brief period of quiet reflection."

SECTION 9.

Said article is further amended in Code Section 20-2-2066, relating to admission, enrollment, and withdrawal of students, by adding a new subsection as follows:

"(b.1) A charter system shall enroll students in its system charter schools per the terms of the charter and in accordance with state board rules."

SECTION 10.

Said article is further amended by revising Code Section 20-2-2067.1, relating to amendment of terms of charter for charter school, initial term of charter, and annual report, as follows:

"20-2-2067.1.

(a) The terms of a charter for a local charter school may be amended during the term of the charter upon the approval of the local board, the state board, and the charter school. The terms of a charter for a state chartered special school may be amended during the term of the charter upon the approval of the state board and the charter school. The terms of a charter for a charter system may be amended during the term of the charter upon approval of the state board and the local board.

(b) The initial term of a charter, except for a charter system, shall be for a minimum of five years, unless the petitioner shall request a shorter period of time, and shall not exceed ten years. The local board and the state board, in accordance with Code Section 20-2-2064.1, may renew a local charter, upon the request of the charter school, for the period of time specified in the request, not to exceed ten years. The state board may renew a state

chartered special school, upon the request of the school, for the period of time specified in the request, not to exceed ten years. The initial term of a charter for a charter system shall not exceed five years. The state board may renew the charter of a charter system, upon the request of the local board, for the period of time specified in the request, not to exceed ten years.

(c) Each start-up and conversion charter school and each charter system shall submit an annual report outlining the previous year's progress to the authorizing local board or state board, as appropriate; to parents and guardians of students enrolled in the school, or, for a charter system, to parents and guardians of students enrolled in school within the local school system; and to the Department of Education no later than October 1 of each year. The report submitted by a charter system shall include, but not limited to, data on all of its system charter schools. The report shall contain, but is not limited to:

(1) An indication of progress toward the goals as included in the charter;

(2) Academic data for the previous year, including state academic accountability data, such as standardized test scores and adequate yearly progress data;

(3) Unaudited financial statements for the fiscal year ending on June 30, provided that audited statements will be forwarded to the local board and state board upon completion;

(4) Updated contact information for the school and the administrator, and for charter systems, each system charter school and its respective administrator;

(5) Proof of current nonprofit status, if applicable;

(6) Any other supplemental information that the charter school or charter system chooses to include or that the state board requests that demonstrates that school or system's success; and

(7) For charter systems, an on-site external evaluation of the system at least once every five years, as determined by the state board."

SECTION 11.

Said chapter is further amended by revising Code Section 20-2-2068, relating to charter amendments and terminations, as follows:

"20-2-2068.

(a) The state board may terminate a charter under the following circumstances:

(1)(A) If a majority of the parents or guardians of students enrolled at the charter school vote by a majority vote to request the termination of its charter at a public meeting called with two weeks' advance notice and for the purpose of deciding whether to request the state board to declare the charter null and void; or

(B) If a majority of the faculty and instructional staff employed at the charter school vote by a majority vote to request the termination of its charter at a public meeting called with two weeks' advance notice and for the purpose of deciding whether to request the state board to declare the charter null and void;

This paragraph shall not apply to system charter schools.

(2) If, after providing reasonable notice to the charter school or charter system, as applicable, and an opportunity for a hearing, the state board finds:

(A) A failure to comply with any recommendation or direction of the state board with respect to Code Section 20-14-41;

(B) A failure to adhere to any material term of the charter, including but not limited to the performance goals set forth in the charter;

(C) A failure to meet generally accepted standards of fiscal management;

(D) A violation of applicable federal, state, or local laws or court orders;

(E) The existence of competent substantial evidence that the continued operation of the charter school or charter system would be contrary to the best interests of the students or the community; or

(F) A failure to comply with any provision of Code Section 20-2-2065; or

(3) Upon the written request of a local board for termination of a charter for a local charter school located within its school system if, prior to making such request, the local board provided reasonable notice to the charter school and an opportunity for a hearing, and determined the existence of any of the grounds described in paragraph (2) of this Code section.

(b) For a system charter school, if the school council or governing council, as applicable, at such school within the charter system requests that:

(1) The system charter be terminated; or

(2) The system charter be amended with respect to such system charter school;

the state board, after providing reasonable notice to the charter system and the system charter school, shall conduct a hearing. Based on the findings of the hearing, the state board may enter into negotiations with the charter system to amend the charter to address the concerns of the requesting system charter school. If negotiations fail and the state board finds good cause, the state board shall be authorized to terminate the system charter or to amend the system charter with respect to the requesting system charter school; provided, however, that the local board shall be authorized to terminate the system charter if it is unwilling to accept the amendments to such charter by the state board. 'Good cause' includes but is not limited to a local board's failure to comply with its obligations and duties under the system charter, state board rules, or other applicable law, or other good cause as determined in the sole discretion of the state board."

SECTION 12.

Said chapter is further amended in Code Section 20-2-2068.1, relating to application of the Quality Basic Education Formula, grants, local tax revenue, and funds from local bonds, by revising subsections (a) and (c) as follows:

"(a) A local charter school shall be included in the allotment of QBE formula earnings, applicable QBE grants, applicable non-QBE state grants, and applicable federal grants to the local school system in which the local charter school is located under Article 6 of this chapter. The local board and the state board shall treat a conversion charter school no less

favorably than other local schools located within the applicable local school system unless otherwise provided by law. The local board and the state board shall treat a start-up charter school no less favorably than other local schools within the applicable local system with respect to the provision of funds for instruction, school administration, transportation, food services, and, where feasible, building programs."

"(c) In addition to the earnings set out in subsection (b) of this Code section, local revenue shall be allocated to a local charter school on the same basis as for any local school in the local school system. In the case of a start-up charter school, local revenue earnings shall be calculated as follows:

(1) Determine the total amount of state and local five mill share funds earned by students enrolled in the local start-up charter school as calculated by the Quality Basic Education Formula pursuant to Part 4 of Article 6 of this chapter including any funds for psychologists and school social workers but excluding five percent of system-wide funds for central administration and excluding any categorical grants not applicable to the charter school;

(2) Determine the total amount of state and local five mill share funds earned by all students in the public schools of the local school system, including any charter schools that receive local revenue, as calculated by the Quality Basic Education Formula but excluding categorical grants and other non-QBE formula grants;

(3) Divide the amount obtained in paragraph (1) of this subsection by the amount obtained in paragraph (2) of this subsection; and

(4) Multiply the quotient obtained in paragraph (3) of this subsection by the school system's local revenue.

The product obtained in paragraph (4) of this subsection shall be the amount of local funds to be distributed to the local start-up charter school by the local board; provided, however, that nothing in this subsection shall preclude a charter petitioner and a local board of education from specifying in the charter a greater amount of local funds to be provided by the local board to the local start-up charter school if agreed upon by all parties to the charter. Local funds so earned shall be distributed to the local start-up charter school by the local board. Where feasible and where services are provided, funds for construction projects shall also be distributed to the local start-up charter school as earned. In all other fiscal matters, including applicable federal allotments, the local board shall treat the local start-up charter school no less favorably than other local schools located within the applicable school system and shall calculate and distribute the funding for the start-up charter school on the basis of its actual or projected enrollment in the current school year according to an enrollment counting procedure or projection method stipulated in the terms of the charter."

SECTION 13.

Said chapter is further amended in Code Section 20-2-2068.1, relating to application of the Quality Basic Education Formula, grants, local tax revenue, and funds from local bonds, by

adding a new subsection to read as follows:

"(h) For system charter schools, funds including federal, state, and local revenue shall be distributed to each such school by the charter system in a manner and in such amounts as are provided in the terms of the charter with an objective of maximizing spending at the school level."

SECTION 14.

Said chapter is further amended by revising Code Section 20-2-2069, relating to the Office of Charter School Compliance, as follows:

"20-2-2069.

There is established within the Department of Education an Office of Charter School Compliance, the responsibilities of which shall be to:

(1) Prepare charter school and charter system guidelines to be approved by the state board;

(2) Distribute charter school and charter system petition information to inquiring parties;

(3) Process all charter school and charter system petitions and coordinate with the Charter Advisory Committee established pursuant to Code Section 20-2-2063.1 to facilitate its review and recommendations to the state board;

(4) Administer any state or federal charter school implementation grant program;

(5) Contract with an independent party to evaluate the performance of charter schools and charter systems, as such performance relates to fulfilling the terms of their charters; and

(6) Compile information necessary to produce the annual report required by Code Section 20-2-2070."

SECTION 15.

(a) Section 12 of this Act shall become effective on July 1, 2008 and shall apply beginning in the 2008-2009 school year and every year thereafter; provided, however, local school systems shall plan for such changes to the law pursuant to Section 12 of this Act and take all necessary measures with regard to budgeting prior to such effective date.

(b) All other sections of this bill shall be effective July 1, 2007.

SECTION 16.

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

Approved May 18, 2007.

EDUCATION – GEORGIA SPECIAL NEEDS SCHOLARSHIP ACT.

No. 117 (Senate Bill No. 10).

AN ACT

To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, so as to enact the "Georgia Special Needs Scholarship Act"; to provide for a short title; to define certain terms; to provide for scholarships for public school students with disabilities to attend other public or private schools; to provide for qualifications and criteria for the scholarship program; to establish certain requirements for schools that participate in the scholarship program; to provide for the amount of scholarship and method of payments; to authorize the State Board of Education to promulgate certain rules; to provide for an annual report on the program; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is amended by adding at the end thereof a new article, to be designated as Article 33, to read as follows:

"ARTICLE 33

20-2-2110.

This article shall be known and may be cited as the 'Georgia Special Needs Scholarship Act.'

20-2-2111.

The General Assembly finds that:

(1) Students with disabilities have special needs that merit educational alternatives which will allow students to learn in an appropriate setting and manner;

(2) Parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their children;

(3) Children, parents, and families are the primary beneficiaries of the scholarship program authorized in this article and any benefit to private schools, sectarian or otherwise, is purely incidental;

(4) The scholarship program established in this article is for the valid secular purpose of tailoring a student's education to that student's specific needs and enabling families to make genuine and independent private choices to direct their resources to appropriate schools; and

(5) Nothing in this article shall be construed as a basis for granting vouchers or tuition tax credits for any other students, with or without disabilities.

20-2-2112.

As used in this article, the term:

(1) 'Board' means the State Board of Education.

(2) 'Department' means the Department of Education.

(3) 'Parent' means a biological parent, legal guardian, custodian, or other person with legal authority to act on behalf of a child.

(4) 'Participating school' means a private school that has notified the department of its intention to participate in the program, and that complies with the department's requirements.

(5) 'Prior school year in attendance' means that the student was enrolled and reported by a public school system or school systems for funding purposes during the preceding October and March full-time equivalent (FTE) program counts in accordance with Code Section 20-2-160.

(6) 'Private school' means a nonpublic school, sectarian or nonsectarian, which is accredited or in the process of becoming accredited by one or more of the entities listed in subparagraph (A) of paragraph (6) of Code Section 20-3-519.

(7) 'Program' means the scholarship program established pursuant to this article.

(8) 'Resident school system' means the public school system in which the student would be enrolled based on his or her residence.

(9) 'Scholarship' means a Georgia Special Needs Scholarship awarded pursuant to this article.

(10) 'Scholarship student' means a student who receives a scholarship pursuant to this article.

20-2-2113.

The resident school system shall annually notify prior to the beginning of each school year the parent of a student with a disability by letter, electronic means, or by such other reasonable means in a timely manner of the options available to the parent under this article.

(1) The parent may choose for the student to attend another public school within the resident school system which has available space and which has a program with the services agreed to in the student's existing individualized education program. If the parent chooses this option, then the parent shall be responsible for transportation to such school. The student may attend such public school pursuant to this paragraph until the

student completes all grades of the school, graduates, or reaches the age of 21, whichever occurs first, in accordance with federal and state requirements for disabled students;

(2) The parent may choose to enroll the student in and transport the student to a public school outside of the student's resident school system which has available space and which has a program with the services agreed to in the student's existing individualized education program. The public school system may accept the student, and if it does, such system shall report the student for purposes of funding to the department;

(3) The parent may choose for the student to attend one of the state schools for the deaf and blind operated by the State Board of Education, if appropriate for the student's needs. Funding for such students shall be provided in accordance with Code Section 20-2-302; or

(4) The parent may request and receive from the department a scholarship for the student to enroll in and attend a participating private school in accordance with this article.

20-2-2114.

(a) A student shall qualify for a scholarship under this article if:

(1) The student's parent currently resides within Georgia and has been a Georgia resident for at least one year;

(2) The student has one or more of the following disabilities:

(A) Autism;

(B) Deaf/blind;

(C) Deaf/hard of hearing;

(D) Emotional and behavioral disorder;

(E) Intellectual disability;

(F) Orthopedic impairment;

(G) Other health impairment;

(H) Specific learning disability;

(I) Speech-language impairment;

(J) Traumatic brain injury; or

(K) Visual impairment;

(3) The student has spent the prior school year in attendance at a Georgia public school and shall have had an Individualized Education Program (IEP) written by the school in accordance with federal and state laws and regulations;

(4) The parent obtains acceptance for admission of the student to a participating school; and

(5) The parent submits an application for a scholarship to the department no later than the deadline established by the department.

(b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student, including transportation to and from the participating school.

(c) For a student who participates in the program whose parents request that the student take the state-wide assessments pursuant to Code Section 20-2-281, the resident school system shall make available to the student locations and times to take all state-wide assessments. Test scores of private school students participating in the state-wide assessments shall not be applied to the system averages of the resident school system for data reported for federal and state requirements.
(d) Students enrolled in a school operated by the Department of Juvenile Justice are not eligible for the scholarship.
(e) The scholarship shall remain in force until the student returns to his or her assigned school in the resident public school system, graduates from high school, or reaches the age of 21, whichever occurs first. However, at any time, the student's parent may remove the student from the participating school and place the student in another participating school or public school as provided for in Code Section 20-2-2113.
(f) Acceptance of a scholarship shall have the same effect as a parental refusal to consent to services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C.A. Section 1400, et seq.
(g) The creation of the program or the granting of a scholarship pursuant to this article shall not be construed to imply that a public school did not provide a free and appropriate public education for a student or constitute a waiver or admission by the state.
(h) Any scholarship directed to a participating school is so directed wholly as a result of the genuine and independent private choice of the parent.
(i) The parent of each student participating in the scholarship program shall comply fully with the participating school's rules and policies.
(j) Any parent who fails to comply with the provisions of this article and department regulations relating to the scholarship shall forfeit the scholarship.

20-2-2115.
(a) To be eligible to enroll a scholarship student, a participating school shall:
(1) Have a physical location in Georgia where the scholarship students attend classes and have direct contact with the school's teachers;
(2) Demonstrate fiscal soundness by having been in operation for one school year or by submitting a financial information report for the school that complies with uniform financial accounting standards established by the department and conducted by a certified public accountant. The report must confirm that the school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming school year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. The report shall be limited in scope to those records that are necessary for the department to make a determination on fiscal soundness and to make payments to schools for scholarships;
(3) Comply with the antidiscrimination provisions of 42 U.S.C. Section 2000d;
(4) Comply with all health and safety laws or codes that apply to private schools;

(5) Comply with all provisions of Code Section 20-2-690 and any other state law applicable to private schools;
(6) Regularly report to the parent and the department on the student's academic progress, including the results of pre-academic assessments and post-academic assessments given to the student, in accordance with department guidelines; and
(7) Employ or contract with teachers who hold a bachelor's degree or higher degree or have at least three years of experience in education or health and annually provide to the parents the relevant credentials of the teachers who will be teaching their students.
(b) A home school operating under the provisions of Code Section 20-2-690 shall not be eligible to enroll scholarship students.
(c) Residential treatment facilities licensed or approved by the state shall not be eligible to enroll scholarship students.
(d) The creation of the program shall not be construed to expand the regulatory authority of the state, its officers, or any public school system to impose any additional regulation of nonpublic schools beyond those reasonably necessary to enforce the requirements of this article.
(e) A participating school intending to enroll scholarship students shall submit an application to the department by June 30 of the school year preceding the school year in which it intends to enroll scholarship students. The notice shall specify the grade levels and services that the school has available for students with disabilities who are participating in the scholarship program. A school intending to enroll scholarship students in the 2007-2008 school year shall submit an application no later than June 30, 2007.
(f) The board shall approve a participating school's application to enroll scholarship students if the school meets the eligibility requirements of this article and complies with board rules established pursuant to Code Section 20-2-2117. The board shall make available to local school systems and the public a list of participating schools.

20-2-2116.
(a) The maximum scholarship granted a scholarship student pursuant to this article shall be an amount equivalent to the costs of the educational program that would have been provided for the student in the resident school system as calculated under Code Section 20-2-161. This shall not include any federal funds.
(b) The amount of the scholarship shall be the lesser of the amount calculated in subsection (a) or the amount of the participating school's tuition and fees, if applicable. The amount of any assessment fee required by the participating school may be paid from the total amount of the scholarship.
(c) Scholarship students shall be counted in the enrollment of their resident school system; provided, however, that this count shall only be for purposes of determining the amount of the scholarship and the scholarship students shall not be included as enrolled for purposes of state or federal accountability requirements, including, but not limited to, the federal Elementary and Secondary Education Act, as amended by the No Child Left Behind Act

of 2001 (P.L. 107-110). The funds needed to provide a scholarship shall be subtracted from the allotment payable to the resident school system.

(d) Each local school system shall submit quarterly reports to the department on dates established by the department stating the number of scholarship students in the resident school system. Following each notification, the department shall transfer from the state allotment to each school system the amount calculated under Code Section 20-2-161 to a separate account for the scholarship program for quarterly disbursement to the parents of scholarship students. When a student enters the program, the department must receive all documentation required for the student's participation, including the participating school's and student's fee schedules at least 30 days before the first quarterly scholarship payment is made for the student. The department may not make any retroactive payments.

(e) Upon proper documentation received by the department, the department shall make quarterly scholarship payments to the parents of scholarship students on dates established by the department during each academic year in which the scholarship is in force. The initial payment shall be made upon evidence of admission to the participating school, and subsequent payments shall be made on evidence of continued enrollment and attendance at the participating school.

(f) Payment to the parents must be made by individual warrant made payable to the student's parent and mailed by the department to the participating school of the parent's choice, and the parent shall restrictively endorse the warrant to the participating school for deposit into the account of such school.

(g) A person, on behalf of a participating school, may not accept a power of attorney from a parent to sign a warrant, and a parent of a scholarship student may not give a power of attorney designating a person, on behalf of a participating school, as the parent's attorney in fact.

(h) If the participating school requires partial payment of tuition prior to the start of the academic year to reserve space for students admitted to the school, that partial payment may be paid by the department prior to the first quarterly payment of the year in which the scholarship is awarded, up to a maximum of $1,000.00, and deducted from subsequent scholarship payments. If a student decides not to attend the participating school, the partial reservation payment must be returned to the department by such school. Only one reservation payment per student may be made per year.

20-2-2117.

(a) The board shall adopt rules to administer the program regarding eligibility and participation of participating schools, including, but not limited to, timelines that will maximize student and public and private school participation, the calculation and distribution of scholarships to eligible students and participating schools, and the application and approval procedures for eligible students and participating schools. The department shall develop and utilize a compliance form for completion by participating schools. The department shall be authorized to require any pertinent information as it

deems necessary from participating schools for the purpose of implementing the program. Participating schools shall be required to complete such forms and certify their accuracy.
(b) No liability shall arise on the part of the department or the state or of any local board of education based on the award or use of a scholarship awarded pursuant to this article.
(c) The department may bar a school from participation in the program if the department determines that the school has intentionally and substantially misrepresented information or failed to refund to the state any scholarship overpayments in a timely manner.

20-2-2118.
The Office of Student Achievement, in conjunction with the department, shall provide the General Assembly not later than December 1 of each year with a report regarding the scholarship program for the previous fiscal year. The report shall include, but not be limited to, numbers and demographics of students participating and numbers of participating schools. Such report shall also be posted on the Office of Student Achievement's website."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall apply to the 2007-2008 school year and all school years subsequent thereto.

SECTION 3.

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

Approved May 18, 2007.

BUILDINGS -- HOUSING AUTHORITIES; PRIVATE ENTERPRISE AGREEMENTS; CONSOLIDATION OF HOUSING AUTHORITIES.

No. 118 (House Bill No. 30).

AN ACT

To amend Part 1 of Article 1 of Chapter 3 of Title 8 of the Official Code of Georgia Annotated, relating to general provisions relative to housing authorities, so as to change certain provisions relating to definitions; to change certain provisions relating to consolidated housing authorities for two or more municipalities; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1 of Article 1 of Chapter 3 of Title 8 of the Official Code of Georgia Annotated, relating to general provisions relative to housing authorities, is amended in Code Section 8-3-3, relating to definitions relative to housing authorities, by revising paragraph (13.1) as follows:

"(13.1) 'Private enterprise agreement' means a contract between a housing authority and a person or entity operating for profit for:

(A) The management of a housing project;

(B) The development of and the provision of credit enhancement with respect to a housing project;

(C) The ownership or operation of a housing project by the for profit entity in which the housing authority participates, either directly or indirectly through a wholly owned subsidiary, for purposes of facilitating the development, provision of credit enhancement, operation, or management of such housing project in accordance with this article. Such participation may involve ownership by the housing authority of an interest in the housing project through the for profit entity, ownership by the housing authority of the land on which the housing project is developed, or provision by the housing authority of a combination of funds to the for profit entity for a portion of the construction costs of the housing project and funds to the for profit entity to subsidize the operating costs of units for persons of low income to the extent such contract is designated as a private enterprise agreement by the housing authority; or

(D) Any combination of any of the foregoing."

SECTION 2.

Said part is further amended by revising Code Section 8-3-14, relating to consolidated housing authorities for two or more municipalities, as follows:

"8-3-14.

(a) As used in this Code section, the term 'municipality' means any municipality in this state.

(b) If the governing body of each of two or more municipalities by resolution declares that there is a need for one housing authority for all of such municipalities to exercise in such municipalities the powers and other functions prescribed for a housing authority, a public body corporate and politic to be known as a consolidated housing authority, which may be an existing housing authority designated by the municipalities as the consolidated housing authority or a new housing authority, with such corporate name as it selects, shall thereupon exist for all of such municipalities and exercise its powers and other functions within its area of operation as defined in this article, including the power to undertake projects therein. Upon the creation of a consolidated housing authority, any housing authority created for any of such municipalities, other than an existing housing authority designated as the consolidated housing authority, shall cease to exist except for the purpose

of winding up its affairs and executing a deed of its real property to the consolidated housing authority.

(c) The creation of a consolidated housing authority and the finding of need therefor shall be subject to the same provisions and limitations as are applicable to the creation of a regional housing authority; and all of the provisions of this article applicable to regional housing authorities and the commissioners thereof shall be applicable to consolidated housing authorities and the commissioners thereof; provided, however, that Code Section 8-3-107 shall not be applicable to the consolidation of housing authorities into a designated existing housing authority; and provided, further, that the area of operation of a consolidated housing authority shall include all of the territory within the boundaries of each municipality joining in the creation of such authority together with the territory within ten miles of the boundaries of each such municipality; and provided, further, that for all such purposes, the term 'county' shall be construed as meaning 'municipality,' the term 'governing body' in Code Section 8-3-106 shall be construed as meaning 'mayor or other executive head of the municipality,' and the terms 'county housing authority' and 'regional housing authority' shall be construed as meaning 'housing authority of the city' and 'consolidated housing authority,' respectively.

(d) The governing body of a municipality for which a housing authority has not been created may adopt the resolution provided for in subsection (b) of this Code section if it first declares that there is a need for a housing authority to function in said municipality, which declaration shall be made in the same manner and subject to the same conditions as the declaration of the governing body of a city required by Code Sections 8-3-4 through 8-3-6 for the purpose of authorizing a housing authority created for a city to transact business and exercise its powers.

(e) Except as otherwise provided in this Code section, a consolidated housing authority and the commissioners thereof shall, within the area of operation of such consolidated housing authority, have the same functions, rights, powers, duties, privileges, immunities, and limitations as those provided for housing authorities created for cities, counties, or groups of counties and the commissioners of such housing authorities, in the same manner as though all the provisions of law applicable to housing authorities created for cities, counties, or groups of counties were applicable to consolidated housing authorities."

SECTION 3.

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

Approved May 18, 2007.

MOTOR VEHICLES – WINDOW TINTING; EXEMPTIONS.

No. 119 (House Bill No. 79).

AN ACT

To amend Code Section 40-8-73.1 of the Official Code of Georgia Annotated, relating to the prohibition against affixing materials which reduce light transmission through windows or windshields of motor vehicles, so as to provide exemptions for certain vehicles; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 40-8-73.1 of the Official Code of Georgia Annotated, relating to the prohibition against affixing materials which reduce light transmission through windows or windshields of motor vehicles, is amended in subsection (c) by striking "or" at the end of paragraph (6), striking the period at the end of paragraph (7) and inserting a semicolon in lieu thereof, and adding new paragraphs to read as follows:

"(8) Any vehicle that displays a valid special license plate issued to a government official under Code Section 40-2-61, 40-2-63, or 40-2-64;

(9) Any vehicle owned or operated by the state or a political subdivision thereof and that displays a valid license plate issued pursuant to Code Section 40-2-37; or

(10) Any vehicle operated in the course of business by a person licensed or registered under Chapter 38 of Title 43, relating to private detective and private security businesses."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 18, 2007.

REVENUE AND TAXATION – SALES TAX HOLIDAYS.

No. 120 (House Bill No. 128).

AN ACT

To amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from state sales and use tax, so as to provide for an exemption with respect to the sale of certain school supplies, clothing, footwear, computers, and computer related accessories for a limited period of time; to provide for an exemption from sales and use tax with respect to certain sales of certain energy efficient products for a limited period of time; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from state sales and use tax, is amended by revising subparagraph (A) of paragraph (75) as follows:

"(75)(A) The sale of any covered item. The exemption provided by this paragraph shall apply only to sales occurring during a period commencing at 12:01 A.M. on August 2, 2007, and concluding at 12:00 Midnight on August 5, 2007."

SECTION 2.

Said Code section is further amended by revising subparagraph (A) of paragraph (82) as follows:

"(82)(A) Purchase of energy efficient products with a sales price of $1,500.00 or less per product purchased for noncommercial home or personal use. The exemption provided by this paragraph shall apply only to sales occurring during a period commencing at 12:01 A.M. on October 4, 2007, and concluding at 12:00 Midnight on October 7, 2007."

SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 4.

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

Approved May 18, 2007.

CONTRACTS – ADDITIONAL CONTRACTS CONTRAVENING PUBLIC POLICY.

No. 121 (House Bill No. 136).

AN ACT

To amend Code Section 13-8-2 of the Official Code of Georgia Annotated, relating to contracts contravening public policy generally, so as to provide that any contract which imposes certain taxes or fees on an insurance company for certain services shall be deemed to be contrary to public policy and unenforceable; to provide that any provision of a contract which provides for indemnification against liability for damages arising out of bodily injury to persons, death, or damage to property caused by an indemnitee or its, his, or her officers, agents, or employees in connection with a contract or agreement relative to the construction, alteration, repair, or maintenance of a building structure, appurtenances, and appliances is against public policy, void, and unenforceable; to provide for related matters; to provide for applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 13-8-2 of the Official Code of Georgia Annotated, relating to contracts contravening public policy generally, is amended as follows:

"(a) A contract which is against the policy of the law cannot be enforced. Contracts deemed contrary to public policy include but are not limited to:

(1) Contracts tending to corrupt legislation or the judiciary;

(2) Contracts in general restraint of trade, as distinguished from contracts in partial restraint of trade as provided for in Code Section 13-8-2.1;

(3) Contracts to evade or oppose the revenue laws of another country;

(4) Wagering contracts; or

(5) Contracts of maintenance or champerty.

(b) A covenant, promise, agreement, or understanding in or in connection with or collateral to a contract or agreement relative to the construction, alteration, repair, or maintenance of a building structure, appurtenances, and appliances, including moving, demolition, and excavating connected therewith, purporting to require that one party to such contract or agreement shall indemnify, hold harmless, insure, or defend the other party to the contract or other named indemnitee, including its, his, or her officers, agents, or employees, against liability or claims for damages, losses, or expenses, including attorney fees, arising out of bodily injury to persons, death, or damage to property caused by or resulting from the sole negligence of the indemnitee, or its, his, or her officers, agents, or employees, is against public policy and void and unenforceable. This subsection shall not affect any obligation

under workers' compensation or coverage or insurance specifically relating to workers' compensation, nor shall this subsection apply to any requirement that one party to the contract purchase a project specific insurance policy, including an owner's or contractor's protective insurance, builder's risk insurance, installation coverage, project management protective liability insurance, an owner controlled insurance policy, or a contractor controlled insurance policy."

SECTION 2.

This Act shall not be applied to impair any obligation of contract or agreement entered into prior to the effective date of this Act, but this Act shall apply to any contract entered into, extended, or renewed on or after such date.

SECTION 3.

This Act shall become effective on July 1, 2007.

SECTION 4.

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

Approved May 18, 2007.

LOCAL GOVERNMENT – BID BONDS AND LETTERS OF CREDIT; CASH; SUBSTITUTES.

No. 122 (House Bill No. 134).

AN ACT

To amend Part 2 of Article 3 of Chapter 91 of Title 36 of the Official Code of Georgia Annotated, relating to bid bonds for public works bidding for local governments, so as to change certain provisions relating to cash in lieu of bid bonds and letters of credit; to change certain provisions relating to acceptable substitutes for bonds; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 2 of Article 3 of Chapter 91 of Title 36 of the Official Code of Georgia Annotated, relating to bid bonds for public works bidding for local governments, is amended by revising

subsection (b) of Code Section 36-91-51, relating to cash in lieu of bid bonds and letters of credit, as follows:

"(b) When the amount of any bid bond required under this article does not exceed $750,000.00, the governmental entity may, in its sole discretion, accept an irrevocable letter of credit issued by a bank or savings and loan association, as defined in Code Section 7-1-4, in the amount of and in lieu of the bond otherwise required under Code Section 36-91-50."

SECTION 2.

Said part is further amended by revising Code Section 36-91-71 of the Official Code of Georgia Annotated, relating to acceptable substitutes for bonds, as follows:

"36-91-71.

When the amount of the performance bond required under this article does not exceed $750,000.00, the governmental entity may, in its sole discretion, accept an irrevocable letter of credit by a bank or savings and loan association, as defined in Code Section 7-1-4, in the amount of and in lieu of the bond otherwise required under this article."

SECTION 3.

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

Approved May 18, 2007.

WILLS – INTESTATE SHARE; FORFEITURE; INHERITANCE RULES.

No. 123 (House Bill No. 139).

AN ACT

To amend Code Section 53-1-20 and Article 1 of Chapter 2 of Title 53 of the Official Code of Georgia Annotated, relating, respectively, to renouncing succession and to general provisions relative to descent and distribution, so as to correct a cross-reference; to provide for forfeiture of an intestate share of an estate under certain circumstances; to provide for definitions; to provide for notice of proceedings; to provide for an appointment of a guardian ad litem under certain circumstances; to provide for judicial proceedings and standard of proof; to change certain provisions relating to the rules of inheritance when a decedent dies without a will; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 53-1-20 of the Official Code of Georgia Annotated, relating to renouncing succession, is amended by revising subsection (f) as follows:

"(f)(1) Except as otherwise provided by the will or other governing instrument, a renunciation shall cause the renounced property to pass as if the person renouncing had predeceased the decedent or, in the case of property passing upon exercise of a power of appointment, as if the person renouncing had predeceased the holder of the power, even if the acceleration of a contingent remainder or other interest results. A will or other governing instrument may otherwise provide expressly or by implication, but the fact that a remainder or other future interest following a renounced interest is conditioned upon surviving the holder of such renounced interest shall not, without more, be sufficient to indicate that such conditioned interest should not accelerate by reason of such renunciation. Notwithstanding the foregoing, solely for the purposes of the last clause of paragraph (5) and the last clause of paragraph (7) of subsection (c) of Code Section 53-2-1, any individual renouncing who is the only sibling or the only aunt or uncle surviving the decedent shall not be deemed to have predeceased the decedent.

(2) Renounced property that is the subject of an attempted outright gift shall be treated as an incomplete gift.

(3) A renounced power over property shall be treated as if such power had not been created with respect to the person renouncing such power.

(4) The expression in a renunciation of an intent or desire that the property pass to certain persons shall be considered merely precatory and shall have no legal effect unless specifically declared to be a condition of the renunciation."

SECTION 2.

Article 1 of Chapter 2 of Title 53, relating to general provisions relative to descent and distribution, is amended in Code Section 53-2-1, relating to rules of inheritance when a decedent dies without a will, by revising said Code section as follows:

"53-2-1.

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

(1)(A) 'Abandon' means that a parent of a minor child, without justifiable cause, fails to communicate with the minor child, care for the minor child, and provide for the minor child's support as required by law or judicial decree for a period of at least one year immediately prior to the date of the death of the minor.

(B) 'Abandonment' means the act of abandoning.

(2) 'Minor child' means a person who is less than 18 years of age.

(b) For purposes of this Code section:

(1) Children of the decedent who are born after the decedent's death are considered children in being at the decedent's death, provided they were conceived prior to the

decedent's death, were born within ten months of the decedent's death, and survived 120 hours or more after birth; and

(2) The half-blood, whether on the maternal or paternal side, are considered equally with the whole-blood, so that the children of any common parent are treated as brothers and sisters to each other.

(c) Except as provided in subsection (d) of this Code section, when a decedent died without a will, the following rules shall determine such decedent's heirs:

(1) Upon the death of an individual who is survived by a spouse but not by any child or other descendant, the spouse is the sole heir. If the decedent is also survived by any child or other descendant, the spouse shall share equally with the children, with the descendants of any deceased child taking that child's share, per stirpes; provided, however, that the spouse's portion shall not be less than a one-third share;

(2) If the decedent is not survived by a spouse, the heirs shall be those relatives, as provided in this Code section, who are in the nearest degree to the decedent in which there is any survivor;

(3) Children of the decedent are in the first degree, and those who survive the decedent shall share the estate equally, with the descendants of any deceased child taking, per stirpes, the share that child would have taken if in life;

(4) Parents of the decedent are in the second degree, and those who survive the decedent shall share the estate equally;

(5) Siblings of the decedent are in the third degree, and those who survive the decedent shall share the estate equally, with the descendants of any deceased sibling taking, per stirpes, the share that sibling would have taken if in life; provided, however, that, subject to the provisions of paragraph (1) of subsection (f) of Code Section 53-1-20, if no sibling survives the decedent, the nieces and nephews who survive the decedent shall take the estate in equal shares, with the descendants of any deceased niece or nephew taking, per stirpes, the share that niece or nephew would have taken if in life;

(6) Grandparents of the decedent are in the fourth degree, and those who survive the decedent shall share the estate equally;

(7) Uncles and aunts of the decedent are in the fifth degree, and those who survive the decedent shall share the estate equally, with the children of any deceased uncle or aunt taking, per stirpes, the share that uncle or aunt would have taken if in life; provided, however, that, subject to the provisions of paragraph (1) of subsection (f) of Code Section 53-1-20, if no uncle or aunt of the decedent survives the decedent, the first cousins who survive the decedent shall share the estate equally; and

(8) The more remote degrees of kinship shall be determined by counting the number of steps in the chain from the relative to the closest common ancestor of the relative and decedent and the number of steps in the chain from the common ancestor to the decedent. The sum of the steps in the two chains shall be the degree of kinship, and the surviving relatives with the lowest sum shall be in the nearest degree and shall share the estate equally.

(d) Except as provided in Code Sections 19-7-1 and 51-4-4 for the right of recovery for the wrongful death of a child, when a minor child dies without a will, a parent who willfully abandoned his or her minor child and has maintained such abandonment shall lose all right to intestate succession to the minor child's estate and shall not have the right to administer the minor child's estate. A parent who has been deprived of the custody of his or her minor child under an order of a court of competent jurisdiction and who has substantially complied with the support requirements of the order shall not be barred from inheriting from the minor child's estate.

(e) For cases in which abandonment is alleged, the moving party shall file a motion with the probate court requesting the judge to determine the issue of abandonment and shall serve all parties as set forth in subsection (f) of this Code section. A hearing shall be conducted and all parties shall have the opportunity to present evidence regarding the party's relationship with the decedent. The burden of proof to show an abandonment is on the person asserting the abandonment by clear and convincing evidence.

(f) All parties to a motion filed pursuant to subsection (e) of this Code section shall be served in accordance with Chapter 11 of this title. If a party cannot be personally served and the party's interest in an estate is subject to forfeiture pursuant to subsection (d) of this Code section, the judge shall appoint a guardian ad litem for the party. If a party cannot be personally served, the citation shall also be published in the newspaper in which sheriff's advertisements are published in the county where the party was last known to reside.

(g) In the event that a parent is disqualified from taking a distributive share in the estate of a decedent under subsection (d) of this Code section, the estate of such decedent shall be distributed in accordance with subsection (c) of this Code section as though the parent had predeceased the decedent."

SECTION 3.

This Act shall become effective on July 1, 2007.

SECTION 4.

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

Approved May 18, 2007.

MOTOR VEHICLES – PROFESSIONS – USED MOTOR VEHICLES; SALE; CURBSTONING; UNATTENDED VEHICLES.

No. 124 (House Bill No. 144).

AN ACT

To amend Title 43 and Title 40 of the Official Code of Georgia Annotated, relating to professions and businesses and motor vehicles and traffic, respectively, so as to change certain exceptions concerning the sale or advertising of used motor vehicles displayed or parked on property and the practice of curbstoning; to provide criminal penalties for violations; to repeal Code Section 40-6-201, relating to leaving a motor vehicle unattended; to provide for related matters; to provide for applicability; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 47 of Title 43 of the Official Code of Georgia Annotated, relating to used motor vehicle and used motor vehicle parts dealers, is amended by revising Code Section 43-47-8.1, relating to restrictions on sale or advertising of used motor vehicles displayed or parked, as follows:

"43-47-8.1.

Any person who violates any provision of Code Section 40-2-39.1 shall be deemed to be a licensee for the purpose of imposing sanctions and penalties under this chapter and for the purpose of granting the board jurisdiction over such violator."

SECTION 2.

Article 2 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles, is amended by adding a new Code Section 40-2-39.1 to read as follows:

"40-2-39.1.

(a)(1) An owner or lessee of any real property shall not authorize more than five used motor vehicles within any 12 month period displayed or parked on such real property for the purpose of selling or advertising the sale of such used motor vehicles by the owner or lessee of such vehicles.

(2) An owner or lessee of any real property shall not authorize more than two used motor vehicles at the same time displayed or parked on such real property for the purpose of selling or advertising the sale of such used motor vehicles by the owner or lessee of such vehicles.

(3) An owner or lessee of any used motor vehicle shall not display or park such used motor vehicle on the real property of another for the purpose of selling or advertising the sale of such used motor vehicle if the display or parking of such vehicle will cause the owner or lessee of the real property to be in violation of paragraph (1) or (2) of this subsection.

(4) An owner or lessee of any used motor vehicle shall not display or park such used motor vehicle on the real property of another for the purpose of selling or advertising the sale of such used motor vehicle unless the owner or lessee of such vehicle has the prior permission of the owner or lessee of the real property.

(b) The provisions of subsection (a) of this Code section shall not apply:

(1) If the owner or lessee of the vehicle displayed or parked is employed by the owner or lessee of the real property on which the vehicle is displayed or parked;

(2) If the owner or lessee of the vehicle displayed or parked is conducting business with the owner or lessee of the real property on which the vehicle is parked or displayed at the time such vehicle is displayed or parked; or

(3) If the real property on which a vehicle is parked is a parking lot for which a fee is charged for the use of such parking lot, the owner or lessee of the parked vehicle has paid the fee for the use of such parking lot, and such vehicle is legitimately parked on the property for purposes other than displaying, selling, or advertising the sale of such vehicle.

(c)(1) An owner or lessee of any real property shall not authorize any used motor vehicle to be displayed or parked on such real property for the purpose of selling or advertising the sale of such used motor vehicle if such vehicle is not lawfully titled and registered in the name of the individual or entity offering such vehicle for sale in accordance with the applicable provisions of this chapter and Chapter 3 of this title.

(2) A person shall not advertise, display, sell, or offer for sale any used motor vehicle unless such vehicle is lawfully titled and registered in such person's name in accordance with the applicable provisions of this chapter and Chapter 3 of this title.

(d) Any law enforcement officer or agency, the board, or the owner or lessee of any real property upon which a vehicle is displayed or parked in violation of subsection (a) or (c) of this Code section for longer than 24 consecutive hours may have any such vehicle towed from such real property and stored at the expense of the owner or lessee of such vehicle and may then dispose of said vehicle in accordance with Chapter 11 of this title.

(e) A violation of this Code section shall constitute an unfair or deceptive act or practice and shall be a violation of Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair Business Practices Act of 1975.' A violation of this Code section may be penalized as provided in Code Section 43-47-21 or any other applicable provision of this Code, including, but not limited to, the 'Fair Business Practices Act of 1975.'

(f) This Code section shall not apply to any person licensed under Chapter 47 of Title 43 or to any franchised motor vehicle dealer or any subsidiary wholly owned or controlled by such dealer. This Code section shall not eliminate or change the requirement for any

person to obtain a license under Chapter 47 of Title 43 if such person engages in any conduct or activity for which a license is required under Chapter 47 of Title 43.

(g) Any person who violates this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine not to exceed $1,000.00 for each violation or imprisonment for a period not to exceed 12 months, or both."

SECTION 3.

Article 10 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to stopping, standing, and parking, is amended by repealing Code Section 40-6-201, relating to leaving a motor vehicle unattended, and designating said Code section as reserved.

SECTION 4.

This Act shall be effective on July 1, 2007. Prosecutions for or cases involving any violation of law occurring prior to the effective date of this Act shall not be affected by the repeals or amendments made by it or abated by reason thereof.

SECTION 5.

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

Approved May 18, 2007.

CIVIL PRACTICE – PROFESSIONAL MALPRACTICE; AFFIDAVITS.

No. 125 (House Bill No. 221).

AN ACT

To amend Article 3 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to pleadings and motions, so as to change certain provisions regarding when an affidavit is required to accompany an action for damages alleging professional malpractice; to provide procedures for the filing of an affidavit under certain circumstances; to provide for the timing of a defendant's answer under certain circumstances; to correct a cross-reference; to provide for an effective date and applicability; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 3 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to pleadings and motions, is amended by revising Code Section 9-11-9.1, relating to the affidavit required to accompany charges of professional malpractice, as follows:

"9-11-9.1.

(a) In any action for damages alleging professional malpractice against:

(1) A professional licensed by the State of Georgia and listed in subsection(g) of this Code section;

(2) A domestic or foreign partnership, corporation, professional corporation, business trust, general partnership, limited partnership, limited liability company, limited liability partnership, association, or any other legal entity alleged to be liable based upon the action or inaction of a professional licensed by the State of Georgia and listed in subsection (g) of this Code section; or

(3) Any licensed health care facility alleged to be liable based upon the action or inaction of a health care professional licensed by the State of Georgia and listed in subsection (g) of this Code section,

the plaintiff shall be required to file with the complaint an affidavit of an expert competent to testify, which affidavit shall set forth specifically at least one negligent act or omission claimed to exist and the factual basis for each such claim.

(b) The contemporaneous affidavit filing requirement pursuant to subsection (a) of this Code section shall not apply to any case in which the period of limitation will expire or there is a good faith basis to believe it will expire on any claim stated in the complaint within ten days of the date of filing the complaint and, because of time constraints, the plaintiff has alleged that an affidavit of an expert could not be prepared. In such cases, if the attorney for the plaintiff files with the complaint an affidavit in which the attorney swears or affirms that his or her law firm was not retained by the plaintiff more than 90 days prior to the expiration of the period of limitation on the plaintiff's claim or claims, the plaintiff shall have 45 days after the filing of the complaint to supplement the pleadings with the affidavit. The trial court shall not extend such time for any reason without consent of all parties. If either affidavit is not filed within the periods specified in this Code section, or it is determined that the law firm of the attorney who filed the affidavit permitted in lieu of the contemporaneous filing of an expert affidavit or any attorney who appears on the pleadings was retained by the plaintiff more than 90 days prior to the expiration of the period of limitation, the complaint shall be dismissed for failure to state a claim.

(c) This Code section shall not be construed to extend any applicable period of limitation, except that if the affidavits are filed within the periods specified in this Code section, the filing of the affidavit of an expert after the expiration of the period of limitations shall be considered timely and shall provide no basis for a statute of limitations defense.

(d) If a complaint alleging professional malpractice is filed without the contemporaneous filing of an affidavit as permitted by subsection (b) of this Code section, the defendant shall

not be required to file an answer to the complaint until 30 days after the filing of the affidavit of an expert, and no discovery shall take place until after the filing of the answer.
(e) If a plaintiff files an affidavit which is allegedly defective, and the defendant to whom it pertains alleges, with specificity, by motion to dismiss filed on or before the close of discovery, that said affidavit is defective, the plaintiff's complaint shall be subject to dismissal for failure to state a claim, except that the plaintiff may cure the alleged defect by amendment pursuant to Code Section 9-11-15 within 30 days of service of the motion alleging that the affidavit is defective. The trial court may, in the exercise of its discretion, extend the time for filing said amendment or response to the motion, or both, as it shall determine justice requires.
(f) If a plaintiff fails to file an affidavit as required by this Code section and the defendant raises the failure to file such an affidavit by motion to dismiss filed contemporaneously with its initial responsive pleading, such complaint shall not be subject to the renewal provisions of Code Section 9-2-61 after the expiration of the applicable period of limitation, unless a court determines that the plaintiff had the requisite affidavit within the time required by this Code section and the failure to file the affidavit was the result of a mistake.
(g) The professions to which this Code section shall apply are:
(1) Architects;
(2) Attorneys at law;
(3) Audiologists;
(4) Certified public accountants;
(5) Chiropractors;
(6) Clinical social workers;
(7) Dentists;
(8) Dietitians;
(9) Land surveyors;
(10) Marriage and family therapists;
(11) Medical doctors;
(12) Nurses;
(13) Occupational therapists;
(14) Optometrists;
(15) Osteopathic physicians;
(16) Pharmacists;
(17) Physical therapists;
(18) Physicians' assistants;
(19) Podiatrists;
(20) Professional counselors;
(21) Professional engineers;
(22) Psychologists;
(23) Radiological technicians;

(24) Respiratory therapists;
(25) Speech-language pathologists; or
(26) Veterinarians."

SECTION 2.

Said article is further amended by revising subsection (a) of Code Section 9-11-9.2, relating to medical authorization forms and review of protected health information, as follows:

"(a) In any action for damages alleging medical malpractice against a professional licensed by the State of Georgia and listed in subsection (g) of Code Section 9-11-9.1, against a professional corporation or other legal entity that provides health care services through a professional licensed by the State of Georgia and listed in subsection (g) of Code Section 9-11-9.1, or against any licensed health care facility alleged to be liable based upon the action or inaction of a health care professional licensed by the State of Georgia and listed in subsection (g) of Code Section 9-11-9.1, contemporaneously with the filing of the complaint, the plaintiff shall be required to file a medical authorization form. Failure to provide this authorization shall subject the complaint to dismissal."

SECTION 3.

This Act shall become effective on July 1, 2007, and shall apply to any action filed on or after July 1, 2007.

SECTION 4.

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

Approved May 18, 2007.

HANDICAPPED PERSONS – HEALTH – DISABLED ADULTS AND ELDER PERSONS; EXPLOITATION.

No. 126 (House Bill No. 233).

AN ACT

To amend Chapter 5 of Title 30 and Code Section 31-8-81 of the Official Code of Georgia Annotated, relating to protection of disabled adults and elder persons and definitions for the "Long-term Care Facility Resident Abuse Reporting Act," respectively, so as to revise the definition of the term "exploitation"; to change provisions relating to criminal penalties; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 5 of Title 30 the Official Code of Georgia Annotated, relating to protection of disabled adults and elder persons, is amended by revising paragraph (9) of Code Section 30-5-3, relating to definitions, as follows:

"(9) 'Exploitation' means the illegal or improper use of a disabled adult or elder person or that person's resources through undue influence, coercion, harassment, duress, deception, false representation, false pretense, or other similar means for another's profit or advantage."

SECTION 2.

Said chapter is further amended by revising paragraph (1) subsection (a) of Code Section 30-5-8, relating to criminal offenses and penalties, as follows:

"(a)(1) In addition to any other provision of law, the abuse, neglect, or exploitation of any disabled adult or elder person shall be unlawful."

SECTION 3.

Code Section 31-8-81 of the Official Code of Georgia Annotated, relating to definitions for the "Long-term Care Facility Resident Abuse Reporting Act," is amended by revising paragraph (2) as follows:

"(2) 'Exploitation' means an unjust or improper use of another person or the person's property through undue influence, coercion, harassment, duress, deception, false representation, false pretense, or other similar means for one's own profit or advantage."

SECTION 4.

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

Approved May 18, 2007.

PUBLIC OFFICERS – NOTARY PUBLIC; QUALIFICATIONS; INFORMATION UPDATES; PENALTIES.

No. 127 (House Bill No. 274).

AN ACT

To amend Article 1 of Chapter 17 of Title 45 of the Official Code of Georgia Annotated, relating to notaries public, so as to provide for additional qualifications of a notary; to change certain provisions relating to the notary's application; to change certain provisions relating to a notary's obligation to advise the clerk of superior court of certain changes in personal information; to provide for penalties; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 17 of Title 45 of the Official Code of Georgia Annotated, relating to notaries public, is amended by revising Code Section 45-17-2, relating to qualifications of notaries, as follows:

"45-17-2.

(a) Any individual applying for appointment to be a notary public shall:

(1) Be at least 18 years old;

(2) Be a United States citizen or be a legal resident of the United States;

(3) Be a legal resident of the county from which such individual is appointed;

(4) Have, and provide at the time of the application, the applicant's operating telephone number; and

(5) Be able to read and write the English language.

(b) The qualification of paragraph (3) of subsection (a) of this Code section shall not apply to any nonresident individual applying for appointment as a notary public under the provisions of Code Section 45-17-7."

SECTION 2.

Said article is further amended by revising Code Section 45-17-2.1, relating to the notary's application, as follows:

"(a)(1) Any individual desiring to be a notary public shall submit application to the clerk of superior court of the county in which the individual resides or, when applying under the provisions of Code Section 45-17-7, to the clerk of superior court of the county in which the individual works or has a business. Except for applicants applying under the provisions of Code Section 45-17-7, the applicant shall submit proof to the clerk of

superior court that he or she resides in the county in which the applicant is applying. Such proof shall consist of one of the following:

(A) A valid Georgia driver's license;

(B) A valid United States passport;

(C) A valid voter identification card; or

(D) Such other valid identification by a local or state government or by the United States government.

(2) The applicant shall sign and swear or affirm as outlined in paragraph (2) of subsection (b) of this Code section to the truthfulness of the application which shall state:

(A) That the applicant resides or works or has a business in the county of application and the address of the residence or business. The applicant shall use his or her residential address for purposes of the application and may only use a business address for the application if the applicant is applying pursuant to the provisions of Code Section 45-17-7;

(B) That the applicant is at least 18 years old;

(C) That the applicant can read and write the English language;

(D) That the applicant has an operating telephone number;

(E) All denials, revocations, suspensions, restrictions, or resignations of a notary commission held by the applicant; and

(F) All criminal convictions of the applicant, including any plea of nolo contendere, except minor traffic violations.

(b) In addition to the application required in subsection (a) of this Code section, every applicant for initial appointment as a notary public shall also submit the following endorsement and declaration to the clerk of superior court of the county in which the individual makes application:

(1) Endorsements from two persons who are not relatives of the applicant, who are at least 18 years old, who reside in the county in which the individual makes application, and who have known the applicant for at least one month. The endorsement shall be in the following form:

I, _____(name of endorser)_____, being 18 years of age or older and a legal resident of _____(name of county)_____, believe the applicant for a notary public commission, _____(name of applicant)_____, who is not related to myself, to be a person of integrity, of good moral character, and capable of performing notarial acts. I have known the applicant for one month or more.

_____ _____

(Signature of endorser) (Date)

_____

(Address of endorser)

_____

(Telephone number of endorser)

(2) A declaration of applicant which shall have been signed in the presence of a commissioned notary public of this state. The declaration of applicant shall be in the following form:

I, _____(name of applicant)_____, do solemnly swear or affirm under penalty of perjury that the personal information I have written in this application is true, complete, and correct.

_____
(Signature of applicant)

State of _____
County of _____
On this ____ day of _____, ____, before me appeared, _____, the person who signed the preceding declaration of applicant in my presence and who swore or affirmed that _____(he/she)_____ understood the document and freely declared it to be truthful.

_____
(Official signature of the notary)
(Official seal of the notary)"

SECTION 3.

Said article is further amended by revising subsection (a) of Code Section 45-17-13, relating to a notary's obligation to advise the clerk of superior court of certain changes in personal information, as follows:

"(a) Every notary public shall notify in writing the appointing clerk of superior court and provide a copy of such notice to the Georgia Superior Court Clerks' Cooperative Authority, of any change in the notary's residence or business address, whichever was used for the purpose of appointment, and of any change in the notary's telephone number. The notice shall contain both the old and new addresses and must be received by the clerk of superior court within 30 days of the change."

SECTION 4.

Said article is further amended by revising subsection (b) of Code Section 45-17-20, relating to penalties and prosecution of violations of the article, as follows:

"(b) Any person who performs any notarial service without complying with the provisions of this article shall, upon the first or second conviction, be guilty of a misdemeanor and upon a third or subsequent conviction be guilty or a felony, punishable by imprisonment of not less than one year nor more than five years, a fine of up to $5,000.00, or both."

SECTION 5.

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

Approved May 18, 2007.

PENAL INSTITUTIONS – INMATE ARREST WARRANTS; POSSESSION OF PHOTOGRAPHS OF VICTIMS; INMATE WORK PROGRAMS.

No. 128 (House Bill No. 313).

AN ACT

To amend Chapter 2 of Title 42 of the Official Code of Georgia Annotated, relating to the Board and Department of Corrections, so as to authorize the commissioner to issue warrants for the arrest of inmates; to amend Article 3 of Chapter 5 of Title 42 of the Official Code of Georgia Annotated, relating to conditions of detention generally, so as to prohibit the possession of certain depictions or photographs of victims by certain persons confined in penal institutions; to provide for exceptions; to amend Article 6 of Chapter 5 of Title 42 of the Official Code of Georgia Annotated, relating to voluntary inmate labor programs, so as to clarify that the Georgia Correctional Industries Administration has authority to administer and manage certain inmate work programs and to publicize and invite employers to participate in such inmate work programs; to prohibit employers that participate in inmate work programs from providing any thing of value to the Board of Corrections, the Department of Corrections, the Georgia Correctional Industries Administration, or any officer or employee thereof other than the payments authorized by law; to prohibit the Board of Corrections, the Department of Corrections, the Georgia Correctional Industries Administration, and any officer or employee thereof from accepting any thing of value other than the payments authorized by law from employers that participate in inmate work programs; to provide a definition; to provide a penalty; to amend Code Section 42-10-4 of the Official Code of Georgia Annotated, relating to the powers of the Georgia Correctional Industries Administration, so as to clarify that the administration has authority to administer, manage, and publicize certain inmate work programs; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 42 of the Official Code of Georgia Annotated, relating to the Board and Department of Corrections, is amended by revising Code Section 42-2-8, relating to additional duties of the commissioner, as follows:

"42-2-8.

(a) The commissioner shall direct and supervise all the administrative activities of the board and shall attend all meetings of the board. The commissioner shall also make, publish, and furnish to the General Assembly and to the Governor annual reports regarding the work of the board, along with such special reports as he or she may consider helpful in the administration of the penal system or as may be directed by the board. The commissioner shall perform such other duties and functions as are necessary or desirable to carry out the intent of this chapter and which he or she may be directed to perform by the board.

(b) The commissioner or the commissioner's designee shall be authorized to make and execute contracts and all other instruments necessary or convenient for the acquisition of professional and personal employment services and for the leasing of real property. Subject to legislative appropriations, the commissioner shall also be authorized to make and execute any contract for the land acquisition, design, construction, operation, maintenance, use, lease, or management of a state correctional institution or for any services pertaining to the custody, care, and control of inmates or other functions as are related to the discharge of these responsibilities and to designate any person or organization with whom the commissioner contracts as a law enforcement unit under paragraph (7) of Code Section 35-8-2.

(c) The commissioner shall be authorized to issue a warrant for the arrest of an offender who has escaped from the custody of the department upon probable cause to believe the offender has violated Code Section 16-10-52, relating to escape from lawful confinement."

SECTION 2.

Article 3 of Chapter 5 of Title 42 of the Official Code of Georgia Annotated, relating to conditions of detention generally, is amended by adding a new Code section as follows:

"42-5-65.

(a) For purposes of this Code section, the term 'inmate' means any person confined in a penal institution or confined in another facility under the jurisdiction of or subject to the authority of the board or while under the custody of officials, officers, or employees under the authority of the board.

(b) An inmate who is serving a sentence for a violation of Chapter 5 of Title 16 relating to crimes against the person shall be prohibited from possessing or carrying about his or her person or maintaining in any prison cell or similar area under his or her control any photograph, picture, or similar depiction of any victim of the offense for which he or she is serving where such photograph, picture, or depiction was a part of the criminal investigation, prosecution, or evidence leading to the inmate's conviction.

(c) An inmate who is serving a sentence for a violation of Chapter 6 of Title 16 relating to sexual offenses shall be prohibited from possessing or carrying about his or her person or maintaining in any prison cell or similar area under his or her control any photograph, picture, or similar depiction of any victim of the offense for which he or she is serving.

(d) A person acting in violation of this Code section shall be guilty of a misdemeanor.

(e) This Code section shall not apply where the photograph or picture is needed for use in any civil or criminal proceeding provided that the inmate receives permission by a court having jurisdiction over the proceeding and only for so long as and in such manner as directed by court order.

(f) Nothing in this Code section shall limit further restrictions or limitations on the possession of contraband or victim photographs by persons confined or under the custody of the board as deemed appropriate by the board."

SECTION 3.

Article 6 of Chapter 5 of Title 42 of the Official Code of Georgia Annotated, relating to voluntary inmate labor programs, is amended by revising subsection (a) of Code Section 42-5-120, relating to rules and regulations of the Board of Corrections, as follows:

"(a) The board is authorized to issue and promulgate rules and regulations for programs of voluntary labor by inmates for privately owned profit-making employers to produce goods, services, or goods and services for sale to public and private purchasers. Such rules and regulations shall be designed to meet the published requirements of the Prison Industry Enhancement Certification Program authorized by 18 U.S.C. Section 1761 and federal regulations and to provide other appropriate conditions and limitations. Such rules and regulations may provide for administration and management of such work programs by the department and the Georgia Correctional Industries Administration."

SECTION 4.

Said article is further amended by revising Code Section 42-5-123, relating to compensation by employers for administrative and other costs to the state, as follows:

"42-5-123.

(a) The board shall ensure by rules or by contractual provisions that the privately owned profit-making employers compensate the department and the Georgia Correctional Industries Administration for any administrative costs or other costs incurred by the department or the administration for the operation of the program or programs. The board shall ensure by rules or by contractual provisions that the department and the administration are compensated for use of any employees of the department or the administration, use of any space owned by or under the control of the department or the administration, or use of any other resources of the department or the administration in the operation of the program or programs.

(b) Employers that participate in inmate work programs under this article shall be prohibited from providing any thing of value to the Board of Corrections, the Department

of Corrections, the Georgia Correctional Industries Administration, or any officer or employee thereof other than the payments authorized by this Code section. The Board of Corrections, the Department of Corrections, the Georgia Correctional Industries Administration, and any officer or employee thereof shall be prohibited from accepting any thing of value, other than the payments authorized by this Code section, from employers that participate in inmate work programs under this article. As used in this Code section, the term 'thing of value' shall have the same meaning as that term is defined in Code Section 16-10-2."

SECTION 5.

Said article is further amended by revising Code Section 42-5-124, relating to publicizing and inviting participation in voluntary inmate labor programs, as follows:

"42-5-124.

Following the issuance and promulgation of rules and regulations, the department and the Georgia Correctional Industries Administration are authorized to publicize the program and invite employers to participate. The department shall rely upon the Georgia Department of Labor for determining whether inmates would be displacing other workers, whether labor shortages exist, and the prevailing local wage for work to be done by inmates. The Georgia Department of Labor is authorized to provide such determinations to the department."

SECTION 6.

Code Section 42-10-4 of the Official Code of Georgia Annotated, relating to the powers of the Georgia Correctional Industries Administration, is amended by replacing "; and" with ";" at the end of paragraph (11), by replacing "." with "; and" at the end of paragraph (12), and by adding a new paragraph as follows:

"(13) As provided for in Article 6 of Chapter 5 of Title 42 and as directed by the rules and regulations promulgated by the board, to administer and manage volunteer inmate work programs and to publicize and invite employers to participate in such programs."

SECTION 7.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 8.

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

Approved May 18, 2007.

PROPERTY – REGULATION AND TOWING OF VEHICLES; MUNICIPAL AND PUBLIC SERVICE COMMISSION JURISDICTION.

No. 129 (House Bill No. 316).

AN ACT

To amend Code Section 44-1-13 of the Official Code of Georgia Annotated, relating to removal of improperly parked cars or trespassing personal property, procedure, automatic surveillance prohibited, and penalty, so as to provide the Public Service Commission and the governing authority of municipalities concurrent jurisdiction on matters related to regulating and controlling the towing of certain vehicles under certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 44-1-13 of the Official Code of Georgia Annotated, relating to removal of improperly parked cars or trespassing personal property, procedure, automatic surveillance prohibited, and penalty, is amended by revising subsections (b) and (d) as follows:

"(b)(1) The commission shall have the authorization to regulate and control the towing of trespassing vehicles on private property if such towing is performed without the prior consent or authorization of the owner or operator of the vehicle, including the authority to set just and reasonable rates, fares, and charges for services related to the removal, storage, and required notification to owners of such towed vehicles. No storage fees shall be charged for the first 24 hour period which begins at the time the vehicle is removed from the property, and no such fees shall be allowed for the removal and storage of vehicles removed by towing and storage firms found to be in violation of this Code section. The commission is authorized to impose a civil penalty for any violation of this Code section in an amount not to exceed $2,500.00.

(2) In accordance with subsection (d) of this Code section, the governing authority of a municipality may require towing and storage operators to charge lower maximum rates on traffic moving between points within such municipality than those provided by the commission's maximum rate tariff and may require higher public liability insurance limits and cargo insurance limits than those required by the commission. The governing authority of a municipality shall not provide for higher maximum costs of removal, relocation, or storage than is provided for by the commission."

"(d)(1) In addition to the regulatory jurisdiction of the commission, the governing authority of each municipality having towing and storage firms operating within its territorial boundaries may require and issue a license or permit to engage in private

trespass towing within its corporate municipal limits pursuant to this Code section to any firm meeting the qualifications imposed by said governing authority. The fee for the license or permit shall be set by such governing authority. The maximum reasonable costs of removal, relocation, and storage pursuant to the provisions of this Code section shall be compensatory, as such term is used in the public utility rate-making procedures, and shall be established annually by the governing authority of each municipality having towing and storage firms operating within its territorial boundaries; provided, however, that no storage fees shall be charged for the first 24 hour period which begins at the time the vehicle is removed from the property, and no such fees shall be allowed for the removal and storage of vehicles removed by towing and storage firms found to be in violation of this Code section.

(2) Towing and storage firms operating within a municipality's corporate limits shall obtain a nonconsensual towing permit from the commission and shall file its registered agent's name and address with the commission."

SECTION 2.

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

Approved May 18, 2007.

FOOD – PHARMACY TECHNICIANS.

No. 130 (House Bill No. 330).

AN ACT

To amend Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and pharmacies, so as to provide for the registration of pharmacy technicians; to require the Georgia State Board of Pharmacy to establish and maintain a registry of pharmacy technicians; to authorize the board to require background checks; to provide for rules and regulations; to revise certain provisions relating to patient counseling; to require pharmacists in charge to provide updated information for the registry; to provide for an effective date contingent on funding; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and pharmacies, is amended by revising subsection (a) of Code Section 26-4-28, relating to the powers, duties, and authority of the Georgia State Board of Pharmacy, as follows:

"(a) The board shall have the power, duty, and authority for the control and regulation of the practice of pharmacy in the State of Georgia including, but not limited to, the following:

(1) The licensing by examination or by license transfer of applicants who are qualified to engage in the practice of pharmacy under the provisions of this chapter;

(2) The renewal of licenses to engage in the practice of pharmacy;

(3) The establishment and enforcement of compliance with professional standards and rules of conduct of pharmacists engaged in the practice of pharmacy;

(4) The determination and issuance of standards for recognition and approval of degree programs of schools and colleges of pharmacy whose graduates shall be eligible for licensure in this state, and the specification and enforcement of requirements for practical training including internship;

(5) The enforcement of those provisions of this chapter relating to the conduct or competence of pharmacists practicing in this state and the suspension, revocation, or restriction of licenses to engage in the practice of pharmacy;

(6) The licensure and regulation of pharmacies and pharmacy interns;

(7) The regulation of other employees in the prescription or pharmacy department, including but not limited to the registration and regulation of pharmacy technicians. The board shall be required to establish the minimum qualifications for the registration of pharmacy technicians and shall be authorized to require the completion of a background check and criminal history record check for each person applying for registration as a pharmacy technician in this state. The certificate of registration, once issued, may be valid for no more than two years and shall be renewable biennially upon payment of a renewal fee and compliance with such other conditions as the board may establish by rule or regulation. The board shall be authorized to deny registration, to deny renewal, or to revoke or suspend the registration of a pharmacy technician for any of the grounds set forth in Code Section 26-4-60 or Code Section 43-1-19. However, said denial of a technician application, denial of the renewal of a certificate, or suspension or revocation of a technician registration shall not be considered a contested case under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' but said applicant or registrant shall be entitled to an appearance before the board. The board shall be required to establish and maintain a registry of pharmacy technicians in this state which contains the name and home address of each pharmacy technician and his or her employer and location of employment. The board shall establish a process by which the pharmacist in charge of each pharmacy shall provide updated information on the pharmacy technicians in the pharmacy. The board may establish and collect fees from pharmacy technicians, their

employers, or both for the registration of pharmacy technicians and maintenance of the registry;
(8) The collection of professional demographic data;
(9) The right to seize any such drugs and devices found by the board to constitute an imminent danger to the public health and welfare;
(10) The establishment of minimum specifications for the physical facilities, technical equipment, environment, supplies, personnel, and procedures for the storage, compounding, and dispensing of such drugs or devices utilized within the practice of pharmacy;
(11) The establishment of minimum standards for the purity and quality of such drugs utilized within the practice of pharmacy;
(12) The establishment of minimum standards for the purity and quality of such devices and other materials utilized within the practice of pharmacy;
(13) The issuance and renewal of licenses of all persons engaged in the manufacture and distribution of drugs;
(14) The issuance and renewal of licenses of all persons engaged in the manufacture and distribution of devices utilized within the practice of pharmacy;
(15) The inspection of any licensed person at all reasonable hours for the purpose of determining if any provisions of the laws governing the legal distribution of drugs or devices or the practice of pharmacy are being violated. The board and its officers, agents, and designees shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to drugs, devices, and the practice of pharmacy;
(16) The investigation of alleged violations of this chapter or any other law in this state pertaining to, or in connection with, persons or firms licensed by the board or otherwise authorized by the laws of this state to manufacture, sell, distribute, dispense, or possess drugs, medicines, poisons, cosmetics, or devices, as related to misbranded or counterfeit drugs, or any rules and regulations promulgated by the board under this chapter; the conducting of investigative interviews or full board hearings, with or without the necessity of utilizing the Office of State Administrative Hearings, in respect thereto when in its discretion it appears to be necessary; and the bringing of such violations to the notice of the Attorney General;
(17) The listing at any time upon either a list under Article 3 of Chapter 13 of Title 16, the 'Dangerous Drug Act,' or upon a schedule under Article 2 of Chapter 13 of Title 16, the 'Georgia Controlled Substances Act,' of any drug found to be potentially dangerous to public safety if dispensed without prescription;
(18) The expunging of the pharmacy related practice record of any pharmacist whose record consists of a sole sanction resulting from alcohol impairment and whose pharmacy related practice record during a five-year time period dating from the time of the sanction has incurred no additional charges or infractions;

(19) Restricting the inspection or examination of records or access to any area licensed and under the control of any registrant, which has been issued a permit by the board, to members of the board, agents for the Georgia Drugs and Narcotics Agency, the United States Drug Enforcement Administration, the Georgia Department of Medical Assistance, or other federal agencies or agencies of this state otherwise entitled to such inspections or examinations by law, subpoena, or court order. This paragraph specifically prohibits inspections or examinations of board registrants or any requirement which forces board registrants to allow inspection or examination, or both, of their records by representatives for any nongovernment affiliated, private organization for any purpose since the access of patient prescription records is restricted by this chapter and access by such private organizations is unnecessary in that this access only duplicates existing record-keeping and inspection requirements already addressed by the laws and regulations of the board and other government organizations. This restriction shall also prohibit a private, nongovernment affiliated organization from examining or copying continuing education certificates maintained by individual registrants. Nothing in this paragraph shall prohibit the pharmacist in charge from voluntarily allowing appropriate agencies and organizations to inspect or examine the records and pharmacy area under the control of the pharmacist in charge provided such inspections or examinations are for the purposes of ensuring the quality of care provided to patients;

(20) The requiring of background checks, including, but not limited to, criminal history record checks, on any persons or firms applying for licensure or registration pursuant to this chapter; and

(21) Serving as the sole governmental or other authority which shall have the authority to approve or recognize accreditation or certification programs for specialty pharmacy practice or to determine the acceptability of entities which may accredit pharmacies or certify pharmacists in a specialty of pharmacy practice, and the board may require such accreditation or certification as a prerequisite for specialty or advanced pharmacy practice. Such accreditation and certification standards for specialties shall be set forth in rules promulgated by the board with such rules to contain the required qualifications or limitations. Any accreditation or certification for specialty pharmacy practice approved or recognized by the board shall be deemed sufficient to meet any and all standards, licensure, or requirements, or any combination thereof, otherwise set forth by any private entity or other government agency to satisfy its stated goals and standards for such accreditation or certification. Nothing in this paragraph shall prohibit private entities, government agencies, professional organizations, or educational institutions from submitting accreditation or certification programs for the review and potential approval or recognition by the board. Accreditation and certification for specialty pharmacy practice under this paragraph shall be subject to the following conditions:

(A) Applications shall be submitted as set forth in rules promulgated or approved by the board for accreditation or certification;

(B) Only a pharmacist registered by this state and maintaining an active license in good standing is eligible for certification in a specialty pharmacy practice by the board;
(C) Only a pharmacy registered by this state and maintaining an active license in good standing is eligible for accreditation for specialty pharmacy practice by the board;
(D) Any board approved or recognized accreditation for a specialty pharmacy practice of a pharmacy is to be deemed sufficient and shall satisfy any standards or qualifications required for payment of services rendered as set forth by any insurance company, carrier, or similar third-party payor plan in any policy or contract issued, issued for delivery, delivered, or renewed on or after July 1, 1999;
(E) Any board approved or recognized specialty certification issued to a pharmacist is deemed sufficient and shall satisfy any standards or qualifications required for payment of services rendered as set forth by any insurance company, carrier, or similar third-party payor plan in any policy or contract issued, issued for delivery, delivered, or renewed on or after July 1, 1999; and
(F) The board may deny, revoke, limit, suspend, probate, or fail to renew the accreditation or specialty certification of a pharmacy, pharmacist, or both for cause as set forth in Code Section 26-4-60 or for a violation of Chapter 13 of Title 16 or if the board determines that a pharmacy, pharmacist, or both, no longer meet the accreditation or certification requirements of the board. Before such action, the board shall serve upon the pharmacist in charge of a pharmacy or pharmacist an order to show cause why accreditation or certification should not be denied, revoked, limited, suspended, or probated or why the renewal should not be refused. The order to show cause shall contain a statement for the basis therefor and shall call upon the pharmacist in charge of a pharmacy, the pharmacist, or both, to appear before the board at a time and place not more than 60 days after the date of the service of the order."

SECTION 2.

Said chapter is further amended by revising subsection (d) of Code Section 26-4-82, relating to duties requiring professional judgment and responsibilities of a licensed pharmacist, as follows:

"(d) The board of pharmacy shall promulgate rules and regulations regarding the activities and utilization of pharmacy technicians in pharmacies, including the establishment of a registry as required in paragraph (7) of subsection (a) of Code Section 26-4-28; provided, however, that the pharmacist to pharmacy technician ratio shall not exceed one pharmacist providing direct supervision of three pharmacy technicians. The board may consider and approve an application to increase the ratio in a pharmacy located in a licensed hospital. Such application must be made in writing and must be submitted to the board by the pharmacist in charge of a specific hospital pharmacy in this state. One of the three technicians must:

(1) Have successfully passed a certification program approved by the board of pharmacy;

(2) Have successfully passed an employer's training and assessment program which has been approved by the board of pharmacy; or

(3) Have been certified by either the Pharmacy Technician Certification Board or any other nationally recognized certifying body approved by the board of pharmacy."

SECTION 3.

Said chapter is further amended by revising subsection (b) of Code Section 26-4-85, relating to patient counseling, as follows:

"(b) Upon receipt of a prescription drug order and following a review of the patient's record, the pharmacist or the pharmacy intern operating under the direct supervision of the pharmacist shall personally offer to discuss matters which will enhance or optimize drug therapy with each patient or caregiver of such a patient. Such discussion shall be in person, whenever practicable, or by telephone and shall include appropriate elements of patient counseling, based on the professional judgment of the pharmacist. Such elements may include but are not limited to the following:

(1) The name and description of the drug;

(2) The dosage form, dose, route of administration and duration of therapy;

(3) The intended use of the drug and expected action or result;

(4) Any special directions or precautions for preparation, administration, or use by the patient;

(5) Common severe side effects or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if such side effect, adverse effect, interaction, or therapeutic contraindication occurs;

(6) Techniques for self-monitoring of drug therapy;

(7) The proper storage of the drug;

(8) Prescription refill information;

(9) The action to be taken in the event of a missed dose; and

(10) The comments of the pharmacist relevant to the patient's drug therapy, including any other information peculiar to the specific patient or drug."

SECTION 4.

Said chapter is further amended by revising subsection (d) of Code Section 26-4-110, relating to pharmacy licenses, as follows:

"(d) Each pharmacy shall have a pharmacist in charge. Whenever an applicable rule requires or prohibits action by a pharmacy, responsibility shall be that of the owner and the pharmacist in charge of the pharmacy, whether the owner is a sole proprietor, partnership, association, corporation, or otherwise. The pharmacist in charge shall be responsible for notifying the board in accordance with its rules and regulations of updated information regarding the registration of pharmacy technicians."

SECTION 5.

This Act shall become effective only if funds are specifically appropriated for purposes of this Act in an appropriations Act making specific reference to this Act and shall become effective when funds so appropriated become available for expenditure.

SECTION 6.

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

Approved May 18, 2007.

EDUCATION – GENERAL ASSEMBLY PAGES; CREDITED AS PRESENT AT SCHOOL.

No. 131 (House Bill No. 375).

AN ACT

To amend Subpart 2 of Part 1 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to compulsory attendance of students in elementary and secondary education, so as to provide that children who serve as pages of the General Assembly shall be credited as present by the school in which enrolled in the same manner as an educational field trip; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Subpart 2 of Part 1 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to compulsory attendance of students in elementary and secondary education, is amended by revising Code Section 20-2-692, relating to General Assembly pages granted excused absences, as follows:

"20-2-692.

Children who serve as pages of the General Assembly during the school year, either at regular or special sessions, shall be credited as present by the school in which enrolled in the same manner as an educational field trip, and such participation as a page shall not be counted as an absence, either excused or unexcused."

SECTION 2.

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

Approved May 18, 2007.

INSURANCE – CAPTIVE INSURANCE COMPANIES; GEORGIA INSURERS INSOLVENCY POOL BENEFITS.

No. 132 (House Bill No. 408).

AN ACT

To amend Chapter 41 of Title 33 of the Official Code of Georgia Annotated, relating to captive insurance companies, so as to provide that every association and industrial insured captive insurance company issuing workers' compensation insurance contracts shall be permitted to join and receive benefits from the Georgia Insurers Insolvency Pool; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 41 of Title 33 of the Official Code of Georgia Annotated, relating to captive insurance companies, is amended by revising subsection (a) of Code Section 33-41-20, relating to exclusion from insolvency funds, as follows:

"(a)(1) No captive insurance company other than an association or industrial insured captive insurance company issuing workers' compensation insurance contracts shall be permitted to join or contribute financially to the Georgia Insurers Insolvency Pool under Chapter 36 of this title or any other plan, pool, or association guaranty or insolvency fund in this state. Other than an association or industrial insured captive insurance company issuing workers' compensation insurance contracts, no captive insurance company, or its insureds or claimants against its insureds, nor its parent or any affiliated company shall receive any benefit from the Georgia Insurers Insolvency Pool or any other plan, pool, or association guaranty or insolvency fund for claims arising out of the operations of such captive insurance company.

(2) No captive insurance company shall be required to participate in any FAIR Plan established and maintained in this state under Chapter 33 of this title.

(3) No captive insurance company shall be required to participate in any joint underwriting association established and maintained in this state under Chapter 9 of this title."

SECTION 2.

Said chapter is further amended by adding a new Code section to read as follows:

"33-41-20.1.

(a) On and after January 1, 2008, every association and industrial insured captive insurance company issuing workers' compensation insurance contracts shall become a member of the Georgia Insurers Insolvency Pool under Chapter 36 of this title as to workers' compensation only. Such captive insurance companies shall be liable for assessments pursuant to Code Section 33-36-7 and for all other obligations imposed pursuant to Chapter 36 of this title as to workers' compensation only.

(b) The Georgia Insurers Insolvency Pool shall not be liable for any claims incurred by any captive insurance company before January 1, 2008."

SECTION 3.

This Act shall become effective on January 1, 2008.

SECTION 4.

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

Approved May 18, 2007.

HIGHWAYS – EXCESS WEIGHT; CALCULATION OF FINES.

No. 133 (House Bill No. 536).

AN ACT

To amend Article 2 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to dimensions and weight of vehicles and loads, so as to provide that fines for excess weight should be based on the weight including the allowed variance; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to dimensions and weight of vehicles and loads, is amended in Code Section 32-6-26, relating to weight of vehicle and load, by revising subsection (g) as follows:

"(g)(1) The weight limitations provided for in this Code section, except the limitation in subsections (f) and (h) of this Code section, may be exceeded on any public road within this state which is not an interstate highway, or when making a pickup or delivery on any public road of a county road system, without a permit only when the load on any single axle does not exceed 23,000 pounds, the load on any tandem axle does not exceed 46,000 pounds, and the maximum total gross weight of the vehicle and load does not exceed 80,000 pounds when:

(A) Hauling forest products from the forest where cut to the first point of marketing or processing;

(B) Hauling live poultry or cotton from a farm to a processing plant;

(C) Hauling feed from a feed mill to a farm;

(D) Hauling granite, either block or sawed, or any other naturally occurring raw ore or mineral for further processing, from the quarry or stockpile area to a processing plant located in the same or an adjoining county and construction aggregates hauled to any point, unless otherwise prohibited;

(E) Hauling solid waste or recovered materials from points of generation to a solid waste handling facility or other processing facility; or

(F) Hauling concrete that is in a freshly mixed and unhardened state for delivery to a customer located in the same or an adjoining county.

No lift axle may be used in computing the maximum total gross weight authorized for any vehicle or load under this paragraph.

(2) A vehicle which is hauling the products listed in subparagraph (A) or (B) of paragraph (1) of this subsection or which is hauling any other agricultural or farm product from a farm to the first point of marketing or processing shall be permitted a 5 percent variance from the weight limitations in paragraph (1) of this subsection within a 100 mile radius of the farm or point of origin. Any person who violates the load limitations provided for in this paragraph by exceeding the 5 percent variance per single axle, tandem axle, or maximum total gross weight shall be fined on the basis of the weight limitations of paragraph (1) of this subsection, including the variance allowed by this paragraph.

(3) A vehicle which is hauling the products listed in subparagraph (C) or (D) of paragraph (1) of this subsection shall be permitted a 5 percent variance from the weight limitations in paragraph (1) of this subsection within a 100 mile radius of the farm or point of origin. Any person who violates the load limitations provided for in this paragraph by exceeding the 5 percent variance per single axle, tandem axle, or maximum total gross weight shall be fined on the basis of the weight limitations of paragraph (1) of this subsection and not on the basis of the variance allowed by this paragraph.

(4) Any vehicle carrying a load as authorized in this subsection at night shall be equipped with lights clearly visible for a distance of not less than 300 feet from the front and rear of the vehicle."

SECTION 2.

Said article is further amended in Code Section 32-6-27, relating to enforcement of load limitations, by revising paragraph (1) of subsection (a) as follows:

"(1) Five cents per pound for all excess weight over the allowed weight limitations, including any applicable variances; or"

SECTION 3.

This Act shall become effective on July 1, 2007.

SECTION 4.

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

Approved May 18, 2007.

INSURANCE – LONG-TERM CARE INSURANCE; DEFINITIONS.

No. 134 (House Bill No. 648).

AN ACT

To amend Code Section 33-42-4 of the Official Code of Georgia Annotated, relating to definitions for long-term care insurance, so as to provide for changes to certain definitions; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 33-42-4 of the Official Code of Georgia Annotated, relating to definitions for long-term care insurance, is amended by revising paragraphs (5) and (6) as follows:

"(5) 'Long-term care insurance' means any accident and sickness insurance policy or rider advertised, marketed, offered, or designed primarily to provide coverage for not less than 12 consecutive benefit months or which provides coverage for recurring confinements separated by a period not to exceed six months with a minimum aggregate period of one year for each covered person on an expense incurred, indemnity, prepaid, or other basis,

for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital. Such term includes group and individual accident and sickness policies or riders whether issued by insurers, fraternal benefit societies, nonprofit hospital service corporations, nonprofit medical service corporations, health care plans, health maintenance organizations, or any other similar organizations. Long-term care insurance shall not include any accident and sickness insurance policy which is offered primarily to provide basic medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, catastrophic coverage, comprehensive coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage. Long-term care insurance may be provided through an individual or group life insurance policy by attachment of a long-term care rider or by the automatic inclusion of a long-term care provision which, notwithstanding Code Section 33-42-3, must meet the requirements of this chapter and regulations promulgated by the Commissioner. Any such long-term care riders or policy provisions shall not be exempt from filing requirements and must be filed with the department for approval before being used in this state.

(6) 'Policy' means any policy, contract, or subscriber agreement or any rider or endorsement attached thereto, issued, delivered, issued for delivery, or renewed in this state by an insurer, fraternal benefit society, nonprofit hospital service corporation, nonprofit medical service corporation, health care plan, health maintenance organization, or any other similar organization. Such term shall also include a Georgia Qualified Long-term Care Partnership Program approved policy, as defined in paragraph (4) of Code Section 49-4-161, meeting the requirements of the Georgia Qualified Long-term Care Partnership Program as enacted in subsection (a) of Code Section 49-4-162."

SECTION 2.

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

Approved May 18, 2007.

HANDICAPPED PERSONS – PUBLIC UTILITIES – HEARING IMPAIRED PERSONS; CREATE COMMISSION; RELAY FUND EXPENDITURES.

No. 135 (House Bill No. 655).

AN ACT

To amend Chapter 1 of Title 30 of the Official Code of Georgia Annotated, relating to general provisions relative to handicapped persons, so as to change certain provisions relating to a definition of a hearing impaired person and the Georgia Service Center for Hearing Impaired Persons; to create the Georgia Commission on Hearing Impaired and Deaf Persons and provide for its members, powers, and duties; to amend Code Section 46-5-30 of the Official Code of Georgia Annotated, relating to the establishment, administration, and operation of a state-wide dual party telecommunications relay service for the hearing and speech impaired, so as to change certain provisions relating to authorized expenditures from the fund; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 1 of Title 30 of the Official Code of Georgia Annotated, relating to general provisions relative to handicapped persons, is amended by revising Code Section 30-1-5, relating to a definition of a hearing impaired person and the Georgia Service Center for Hearing Impaired Persons, as follows:

"30-1-5.

(a) For purposes of this Code section, the term 'hearing impaired person' means any person who, absent the aid of a hearing device, has any degree of impairment in the ability to apprehend sound.

(b)(1)(A) There is created the Georgia Commission on Hearing Impaired and Deaf Persons, which shall consist of seven members. Five members shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Assignments, and one member shall be appointed by the Speaker of the House of Representatives. At least two of the members shall be hearing impaired persons, and the remaining five members of the commission shall be selected from among parents of children who are hearing impaired persons, persons who are involved with hearing impaired persons or programs, and representatives of private providers of services to hearing impaired persons. Each commission member shall serve for a three-year term and until a successor is appointed and qualified. No member shall serve more than two consecutive terms. Any vacancy on the commission for any reason other than

expiration of term shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

(B) The commission shall select one member as chairperson.

(C) The commission shall be attached to the Department of Human Resources for administrative purposes only as provided by Code Section 50-4-3.

(2) Members of the commission shall serve as such without compensation.

(3) The commission shall serve as the principal agency of the state to advocate on behalf of hearing impaired persons by working to ensure those persons have equal access to the services, programs, and opportunities available to others.

(4) The commission shall:

(A) Assist hearing impaired persons and parents of hearing impaired persons who are students in advocating for equal access to services, programs, and opportunities;

(B) Advise the Governor, General Assembly, commissioner of human resources, and commissioner of community health on the development of policies, programs, and services affecting hearing impaired persons and on the use of appropriate federal and state moneys for such purposes;

(C) Create a public awareness of the special needs and potential of hearing impaired persons;

(D) Provide the Governor, General Assembly, commissioner of human resources, and commissioner of community health with a review of ongoing services, programs, and proposed legislation affecting hearing impaired persons;

(E) Advise the Governor, General Assembly, commissioner of human resources, and commissioner of community health on statutes, rules, and policies necessary to ensure that hearing impaired persons have equal access to benefits and services provided to individuals in this state;

(F) Recommend to the Governor, General Assembly, commissioner of human resources, and commissioner of community health legislation designed to improve the economic and social conditions of hearing impaired persons in this state;

(G) Propose solutions to problems of hearing impaired persons in the areas of education, employment, human rights, human services, health, housing, and other related programs;

(H) Work with other state and federal agencies and private organizations to promote economic development for hearing impaired persons; and

(I) Coordinate its efforts with other state and local agencies serving hearing impaired persons.

(5) The commission may appoint, subject to the availability of funds and approval of the Governor, an executive director who must be experienced in administrative activities and familiar with the problems and needs of hearing impaired persons. The commission may delegate to the executive director any powers and duties under this subsection that do not require commission approval. The executive director may be removed at any time by a majority vote of the commission. The executive director shall coordinate the provision

of necessary support services to the commission with the Department of Human Resources. Subject to availability of funds, the executive director may employ and direct staff necessary to carry out commission mandates, policies, activities, and objectives.

(6) The commission may contract in its own name. Contracts must be approved by a majority of the members of the commission and executed by the chairperson and the executive director. The commission may apply for, receive, and expend in its own name grants and gifts of money consistent with the powers and duties specified in this subsection.

(7) The commission may prepare and distribute periodic reports to the Governor, General Assembly, commissioner of human resources, and commissioner of community health concerning the activities of the commission and the needs and concerns of hearing impaired persons."

SECTION 2.

Code Section 46-5-30 of the Official Code of Georgia Annotated, relating to the establishment, administration, and operation of a state-wide dual party telecommunications relay service for the hearing and speech impaired, is amended by revising subsection (c) as follows:

"(c) The commission shall require all local exchange telephone companies in this state, except those operated by telephone membership corporations, to impose a monthly maintenance surcharge on all residential and business local exchange access facilities. For the purpose of this subsection, 'exchange access facility' means the access from a particular telephone subscriber's premise to the telephone system of a local exchange telephone company. 'Exchange access facility' includes local exchange company provided access lines, private branch exchange trunks, and centrex network access registers, all as defined by tariffs of telephone companies as approved by the commission. The amount of the surcharge shall be determined by the commission based upon the amount of funding necessary to accomplish the purposes of this Code section and provide the services on an ongoing basis; however, in no case shall the amount exceed 20¢ per month. A maximum of 5¢ of this monthly surcharge per access line shall be utilized for a telecommunications equipment distribution program and a maximum of 1¢ of this monthly surcharge per access line shall be utilized to fund an audible universal information access service. If the projected cost of the operation of the relay service exceeds a monthly surcharge of 15¢ at any time, funding for the telecommunications equipment distribution program and the audible universal information access service will be reduced by the amount required to fully fund the relay service, under the existing cap of 20¢ for the period of time necessary. No additional fees other than the surcharge authorized by this subsection shall be imposed on any user of such relay or information access service. The local exchange companies shall collect the surcharge from their customers and transfer the moneys collected to a special fund to be held separate from all other funds. The fund shall be used solely for the administration and operation of the relay service, the information access service, and the

telecommunications equipment distribution program and for other hearing technology and shall not be imposed, collected, or expended for any other purpose."

SECTION 3.

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

Approved May 18, 2007.

MULTIPLE DEDICATIONS OF STATE HIGHWAY SYSTEM.

No. 136 (Senate Resolution No. 357).

A RESOLUTION

Dedicating certain portions of the state highway system; and for other purposes.

PART I

WHEREAS, Major McGuire was born February 6, 1920, in Tampa, Florida, and died on September 9, 1992, in Appling County, Georgia; and

WHEREAS, he received his pilot's wings at Bush Field in Augusta, Georgia, when he was only 21 years of age, and served his country in the Army Air Corps; and

WHEREAS, he completed six circumnavigations of the world; and

WHEREAS, he flew in North Africa during World War II and also flew judges in and out of Berlin during the Nuremberg trials; and

WHEREAS, Major McGuire flew the first plane into Goose Bay, Labrador, where there was no runway; and

WHEREAS, he was the first pilot to land a four-engine plane at the North Pole; and

WHEREAS, he was promoted to the rank of Major at the age of 31 and retired at 33 after suffering a severe heart attack; and

WHEREAS, he returned to Georgia in 1958 after serving as a city councilman in North Miami Beach, Florida; and

WHEREAS, it is only fitting that this courageous soldier and pilot be honored with a lasting memorial for his service to his country.

PART II

WHEREAS, the late L. M. Moye, Jr., was a distinguished citizen and resident of Stewart County, Georgia, for the majority of his lifetime; and

WHEREAS, he was affectionately known in and around Stewart County during his lifetime as "Red" Moye and made substantial civic and community contributions to the State of Georgia, and County of Stewart; and

WHEREAS, he was a graduate of the Georgia Institute of Technology and served his country in World War II as a U.S. Navy Lt. Commander during the North African Campaign, as well as performing active duty military service at Sicily, Anzio, Palermo, and Normandy; and

WHEREAS, L. M. Moye, Jr., was awarded and decorated with the Purple Heart as a result of his military service to the United States of America; and

WHEREAS, among his achievements and contributions in the areas of historic preservation, he was an original founder and assisted with the early stewardship of Westville Village, and donated land and otherwise worked to establish and promote the Singer-Moye Indian Mounds so that both of these museums could be enjoyed in perpetuity; and

WHEREAS, he helped to establish the Stewart County Fire Unit of the Georgia Forestry Commission, served as Stewart County's District Supervisor on the Lower Chattahoochee Soil and Water Conservation Board, and also served a term as State President; and

WHEREAS, L. M. Moye, Jr., served his community in various capacities as a volunteer, including service as a Little League and Pony League baseball coach, Cub Scout leader, and member of Cuthbert Presbyterian Church; and

WHEREAS, he established and maintained a home in Stewart County with his wife, Sue McLendon Moye, whom he married in 1945, and together they raised two sons, Andrew J. Moye, III, and Matthew M. Moye, on the family homeplace located three miles south of Lumpkin, Georgia, on the family plantation which has been owned by the family since 1853; and

WHEREAS, the Moye home located in Stewart County was built in 1836 and remains in excellent condition due to the stewardship of L. M. Moye, Jr., and his spouse, who still resides in the home; and

WHEREAS, L. M. Moye, Jr., employed his personal motto to "leave the place in better shape than you found it" in various aspects of his life, including his work and his support of historic preservation efforts; and

WHEREAS, the Board of Commissioners of Stewart County deems it fitting and appropriate to honor the achievements and contributions of the late L. M. "Red" Moye, Jr., by designating a permanent public memorial near his homeplace.

PART III

WHEREAS, Eddie Wiggins will soon be stepping down as the chairman of the 21st Century Partnership; and

WHEREAS, he was a founding father of the partnership in 1993 and has served as chairman since 1999; and

WHEREAS, normally a chairman serves a two-year term, but Eddie Wiggins remained as chairman due to repeated requests from the community and his absolute passion for Robins Air Force Base and Middle Georgia; and

WHEREAS, Eddie Wiggins successfully guided Robins Air Force Base and the community through many challenging issues including reduced budgets, privatization threats, lack of adequate on-base and off-base housing, and lack of medical participation in the TRICARE program; and

WHEREAS, since 1993, Robins Air Force Base has grown from about 18,000 to 27,000 personnel, increased its economic impact on Georgia from $2.3 billion to $4.2 billion, and survived three base closure and realignment rounds; and

WHEREAS, Eddie Wiggins is known nationally as Middle Georgia's Mr. Air Force, and he deserves recognition for dedicating his heart and soul to Robins Air Force Base and the airmen who serve our great country so proudly.

PART IV

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the bridge on SR 104 at Keg Creek, in Columbia County, be dedicated as the Major Byron S. McGuire, Sr. Memorial Bridge.

BE IT FURTHER RESOLVED that the members of this body dedicate the bridge over Pataula Creek on US 27 in Stewart County be dedicated as the L. M. Moye, Jr. Memorial Bridge.

BE IT FURTHER RESOLVED that the members of this body dedicate the Russell Parkway bridge over SR 247 in Houston County as the Eddie Wiggins Bridge.

BE IT FURTHER RESOLVED that the Department of Transportation is authorized and directed to erect and maintain appropriate signs dedicating the road facilities named in this resolution.

BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized and directed to transmit appropriate copies of this resolution to the Department of Transportation, to the family of Major Byron S. McGuire, Sr., to the family of L. M. Moye, Jr., and to Eddie Wiggins.

Approved May 18, 2007.

MULTIPLE DEDICATIONS OF STATE HIGHWAY SYSTEM.

No. 137 (Senate Resolution No. 296).

A RESOLUTION

Dedicating certain portions of the state highway system; and for other purposes.

PART I

WHEREAS, Julian Abel was born on April 23, 1921, and enlisted on August 20, 1942, to serve his country in the Army Air Force during World War II; and

WHEREAS, he was shot down on November 26, 1943; and

WHEREAS, this great citizen of Berrien County, Georgia, made the ultimate sacrifice while in service to his country and defending it during time of war; and

WHEREAS, this courageous soldier, in the spirit of the American patriot, confronted the dangers, privations, and discomforts of wartime service with steadfast resolve, making us as a nation truly proud; and

WHEREAS, all Americans owe a debt of gratitude to the men and women of our armed forces who risk their lives in the defense of freedom and to secure the blessings of liberty for this nation and other peoples of the world.

PART II

WHEREAS, PFC Odom was a member of the 254th Infantry in the United States Army during World War II; and

WHEREAS, while serving in Germany, he was killed on April 18, 1945; and

WHEREAS, this courageous soldier, in the spirit of the American patriot, confronted the dangers, privations, and discomforts of wartime service with steadfast resolve, making us as a nation truly proud; and

WHEREAS, all Americans owe a debt of gratitude to the men and women of our armed forces who risk their lives in the defense of freedom and to secure the blessings of liberty for this nation and other peoples of the world.

PART III

WHEREAS, SFC Bryant H. Roberts was born on January 30, 1920, and served his country in 1942, in the United States Navy aboard the U.S.S. Vincennes during World War II; and

WHEREAS, he made the ultimate sacrifice for his country in the name of freedom for all Americans when he was lost at sea in the line of duty; and

WHEREAS, the Board of Commissioners of Berrien County deems it fitting and appropriate to honor the service and sacrifice of SFC Bryant H. Roberts by designating a permanent public memorial near his homeplace.

PART IV

WHEREAS, Fred L. Belcher was born in November, 1919, and was drafted in 1942 to serve his country in the Army Air Force during World War II; and

WHEREAS, he was captured and held as a prisoner of war in Stalog 17B In Kriems, Austria; and

WHEREAS, this great citizen of Berrien County, Georgia, made the ultimate sacrifice while in service to his country and defending it during time of war; and

WHEREAS, this courageous soldier, in the spirit of the American patriot, confronted the dangers, privations, and discomforts of wartime service with steadfast resolve, making us as a nation truly proud; and

WHEREAS, all Americans owe a debt of gratitude to the men and women of our armed forces who risk their lives in the defense of freedom and to secure the blessings of liberty for this nation and other peoples of the world.

PART V

WHEREAS, Mr. John Paul Ellis lives in Hopeulikit, Georgia, with his wife, Beatrice B. Ellis; and

WHEREAS, they have operated a grocery business there since the late 1930s; and

WHEREAS, they also ran a farm and raised five children in the community; and

WHEREAS, John Paul was a county commissioner in Bulloch County for approximately 25 years; and

WHEREAS, he was instrumental in obtaining a four-lane road in the county from Hopeulikit to Statesboro; and

WHEREAS, it is only fitting to honor a man who has devoted so much of his time to serving his community and the State of Georgia.

PART VI

WHEREAS, Bill Lowery was a dynamic force in the music industry in Georgia for many years; and

WHEREAS, Bill Lowery, through his music publishing and recording company, the Lowery Group, recorded songs for such artists as Brenda Lee, Billy Joe Royal, Joe South, the Atlanta Rhythm Section, and Alicia Bridges; and

WHEREAS, he was a recognized genius in identifying musical talent and recognizing hit music; and

WHEREAS, he was the first non-performer to be inducted into the Georgia Music Hall of Fame; and

WHEREAS, it is fitting and proper to dedicate the section of Clairmont Road between Buford Highway and Century Plaza Parkway in DeKalb County as the Bill Lowery Parkway as an appropriate tribute to this giant of the music industry in Georgia.

PART VII

WHEREAS, Carl Kelly began his military career by joining the Jackson National Guard, then called the Jackson Rifles, while he was still in his teens; and

WHEREAS, when WWII started, the Jackson National Guard was called upon to train for the war in Europe and Carl Kelly was promoted to 1st Sergeant before he left for Ireland to wait for the invasion at Normandy; and

WHEREAS, in St-Lo, France, he was wounded in action and awarded the first of his two bronze stars for gallantry and a Purple Heart; and

WHEREAS, when the Korean Conflict began, Sgt. Kelly was immediately sent to Korea where he was awarded a battlefield commission to 2nd Lieutenant after distinguishing himself as a leader of men; and

WHEREAS, after recuperating from a wound, he returned to battle and soon after was involved in a battle to save an artillery unit that had been ambushed; Lt. Kelly organized the artillerymen into fighting groups and with complete disregard for his safety, led attack after attack on the enemy forces; and

WHEREAS, his conspicuous actions served to center the enemy fire on himself, and finally he was struck by enemy fire and fell mortally wounded; and

WHEREAS, before he died he told a friend to tell his wife and children that he loved them very much and would see them in Heaven someday; and

WHEREAS, Lt. Kelly was in the military service for 11 years and received three Purple Hearts, three Bronze Stars, and a Silver Star, as well as many other service medals.

PART VIII

WHEREAS, Emmett Henry Austin was born January 28, 1906, in Douglas County, Georgia; and

WHEREAS, on October 14, 1923, he married Lena Mae Croker of Paulding County and they then moved to Powder Springs, Georgia, where they resided until their deaths; and

WHEREAS, he sharecropped for a few years and in 1932 helped hang electrical wiring and motors when Clark Thread Company built Clarkdale Mills; and

WHEREAS, in 1935 he helped build the bridge and Highway 278 into Powder Springs and in 1938 the Highway 92 bridge in Hiram; and

WHEREAS, when the new REA was established in 1936, he worked with Glen Florence and Roy Richards to string the first wire for the community; and

WHEREAS, over the next several years he wired farmhouses too numerous to mention with the help of his 11 year-old son; and

WHEREAS, when 220 volt power became available, he rewired many of these same houses; and

WHEREAS, over his career he was an experienced electrician, plumber, mechanic, and highway and bridge builder; and

WHEREAS, he raised eight children, 16 grandchildren, and numerous great-grandchildren, many of whom still live in the Powder Springs/Cobb County area.

PART IX

WHEREAS, Mr. Ralph Lively came into this world on Independence Day, July 4, 1910, in Carroll County, Georgia, and was the son of the late Richard Alvin and Susan Smith Lively; and

WHEREAS, he was preceded in death by his wife, Carrie, with whom he shared 64 years of wonderful marriage; and

WHEREAS, he was known throughout his life for his industry and honest work ethic, and he transported mail during World War II and was a valued employee of the Bell Bomber Company; and

WHEREAS, he started the R.A. Lively Bus Line, retired from the Georgia Department of Agriculture, and worked at the Georgia General Assembly for 27 years as the personal aide to Speaker of the House Thomas B. Murphy; and

WHEREAS, he touched the hearts and lives of everyone he met and was esteemed throughout the General Assembly as a dedicated worker and a gentleman of unimpeachable character; and

WHEREAS, he was a successful gardener who won a blue ribbon for his roses at the Tallapoosa Garden Club Flower Show; and

WHEREAS, he is survived by his many wonderful children and their spouses, E.D. and Labera Lively, Dolores and Herbert Newman, Reita and Bill Mendum, Alton and Shelby

Lively, Mack and Shelby Lively, Jack and Margaret Lively; 17 grandchildren; 38 great-grandchildren; and six great-great grandchildren; and

WHEREAS, he was a faithful member of Tallapoosa First Baptist Church and belonged to Masonic Lodge No. 126; and

WHEREAS, Georgia has lost one of its most distinguished citizens with the unfortunate passing of Ralph Lively and it is only fitting that a lasting memorial to his well-lived life should be created.

PART X

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the members of this body dedicate the Hardy Creek Bridge on US 82, in Berrien County, as the POW Julian Abel Memorial Bridge.

BE IT FURTHER RESOLVED that the members of this body dedicate the Five Mile Creek Bridge on SR 168, in Berrien County, as the PFC Elwood W. Odom Memorial Bridge

BE IT FURTHER RESOLVED that the members of this body dedicate the Ten Mile Creek Bridge on SR 168 near Nashville in Berrien County as the MIA/KIA Bryant H. Roberts, SFC Memorial Bridge.

BE IT FURTHER RESOLVED that the members of this body dedicate the Withlacoochee River Bridge on SR 76 west of Nashville, in Berrien County, as the POW Fred L. Belcher Memorial Bridge.

BE IT FURTHER RESOLVED that the members of this body dedicate the portion of US 80/SR 26 from Portal to Hopeulikit, in Bulloch County, as the John Paul Ellis Highway.

BE IT FURTHER RESOLVED that the members of this body dedicate the portion of Clairmont Road between Buford Highway and Century Plaza Parkway in DeKalb County as the Bill Lowery Parkway.

BE IT FURTHER RESOLVED that the portion of SR 16 East from the railroad tracks to the Jackson city limits, in Butts County, be dedicated as the Lt. Carl Kelly Memorial Highway.

BE IT FURTHER RESOLVED that the Powder Creek Bridge on C. H. James Parkway (SR 6/U.S. 278) between Powder Springs-Dallas Road and Hill Road, in Cobb County, be dedicated as the Emmett Henry Austin Memorial Bridge.

BE IT FURTHER RESOLVED that the members of this body dedicate the portion of US 78 from the US 27 bypass in Bremen, Georgia, to Pine Grove Road, west of Bremen, in Haralson County, as the Ralph Lively Memorial Highway.

BE IT FURTHER RESOLVED that the Department of Transportation is authorized and directed to erect and maintain appropriate signs dedicating the road facilities named in this resolution.

BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized and directed to transmit appropriate copies of this resolution to the Department of Transportation, to the family of Julian Abel, to the family of PFC Elwood W. Odom, to the family of Bryant H. Roberts, to the family of Fred L. Belcher, to John Paul Ellis, to the family of Bill Lowery, to the family of Lt. Carl Kelly, to the family of Emmett Henry Austin, and to the family of Ralph Lively.

Approved May 18, 2007.

EDUCATION – GRADE INTEGRITY ACT OF 2007.

No. 138 (Senate Bill No. 9).

AN ACT

To amend Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to teachers and other school personnel, so as to enact the "Grade Integrity Act of 2007"; to provide that no classroom teacher shall be required, coerced, intimidated, or disciplined in any manner to change the grade of a student; to provide for an ethical violation reportable to the Professional Standards Commission; to provide for statutory construction; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Grade Integrity Act of 2007."

SECTION 2.

Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to teachers and other school personnel, is amended by inserting at the end thereof a new Part 12 to read as follows:

"Part 12

20-2-989.20.

(a) No classroom teacher shall be required, coerced, intimidated, or disciplined in any manner by the local board of education, superintendent, or any local school administrator to change the grade of a student. This subsection shall not apply when a teacher has failed to comply with grading policies or rules adopted by the local board of education or written procedures established by an individual school that are applicable to the grading process, unless such policy, rule, or procedure would require a student be given a grade different than the actual grade achieved. A violation of this Code section shall constitute an ethics violation reportable to the Professional Standards Commission pursuant to Part 10 of this article.

(b) Nothing in this Code section shall be construed to prevent a principal or other local school administrator from discussing the grade of a student with a classroom teacher.

(c) Nothing in this Code section shall be construed to prevent a central office administrator, superintendent, or local school administrator from changing a student's grade. Any grade change made by a person other than the classroom teacher must be clearly indicated in the student's school records and must indicate the person responsible for making such grade change."

SECTION 3.

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

Approved May 18, 2007.

JOINT STUDY COMMITTEE ON STATE STROKE SYSTEM OF CARE.

No. 139 (Senate Resolution No. 30).

A RESOLUTION

Creating the Joint Study Committee on State Stroke System of Care; and for other purposes.

WHEREAS, approximately 700,000 Americans have a new or recurrent stroke each year, and stroke remains the third leading cause of death in the United States when considered independently from other cardiovascular diseases; and

WHEREAS, stroke continues to be a significant cause of morbidity and mortality in the United States; and

WHEREAS, stroke also remains a leading cause of serious, long-term disability in the United States, and major advances have been made during the past several decades in stroke prevention, treatment, and rehabilitation; and

WHEREAS, on average, someone dies of a stroke every three minutes; and

WHEREAS, stroke leads to the death of more than 4,200 citizens of the State of Georgia each year; and

WHEREAS, the majority of Americans are not aware of their stroke risk factors, nor are they aware of the signs and symptoms of an impending stroke; and

WHEREAS, despite successes in delivering effective new therapies, significant obstacles remain in ensuring that scientific advances are consistently translated into clinical practice; and

WHEREAS, in many instances, these obstacles are related to a fragmentation of stroke related care caused by an inadequate integration system between the various facilities, agencies, and professionals that should closely collaborate in providing stroke care; and

WHEREAS, there is increased emphasis on improving the components of stroke care, including recommendations from the Brain Attack Coalition for primary stroke centers and a formal process provided through the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) for the certification of primary stroke centers; and

WHEREAS, it is critically important to look carefully at how the distinct components can be better integrated into systems of stroke care; and

WHEREAS, the fragmented approach to stroke care that exists in most regions of the United States fails to provide an effective integrated system for stroke prevention, treatment, and rehabilitation because of inadequate linkages and coordination among the fundamental components of stroke care; and

WHEREAS, although individual components of a system of stroke care may be well developed, these components often operate in isolation; and

WHEREAS, a system of stroke care should coordinate and promote patient access to the full range of activities and services associated with stroke prevention, treatment, and rehabilitation, including the following key components: primordial and primary prevention, community education, notification and response of emergency medical services, acute stroke treatment, including the hyperacute and emergency department phases, subacute stroke treatment and secondary prevention, rehabilitation, and continuous quality improvement (CQI) activities.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that there is created the Joint Study Committee on State Stroke System of Care to be composed of five members of the House of Representatives to be appointed by the Speaker of the House of Representatives and five members of the Senate to be appointed by the President of the Senate. The Speaker of the House of Representatives shall designate a member of the House and the President of the Senate shall designate a member of the Senate who shall serve as cochairpersons of the committee. The committee shall meet at the call of the cochairpersons in conjunction with the Georgia American Stroke Association, a division of the American Heart Association.

BE IT FURTHER RESOLVED that the committee shall undertake a study of the system of stroke care in Georgia in regards to primary prevention, notification/response of EMS, acute treatment of stroke, subacute treatment of stroke, rehabilitation of stroke patients, and the disparities in recognition of, as well as treatment in, minority communities. The committee shall hear from experts and key leaders from these areas and recommend any actions or legislation which the committee deems necessary or appropriate. The committee may conduct such meetings at such places and at such times as it may deem necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this resolution. The members of the committee shall receive the allowances authorized for legislative members of interim legislative committees but shall receive the same for not more than five days unless additional days are authorized. The funds necessary to carry out the provisions of this resolution shall come from the funds appropriated to the House of Representatives and Senate. In the event the committee makes a report of its findings and recommendations with suggestions for proposed legislation, if any, such report shall be made on or before December 31, 2007. The committee shall stand abolished on December 31, 2007.

Approved May 18, 2007.

LABOR – DIVISION OF REHABILITATION SERVICES; SERVICES AND TECHNIQUES; DEAF-BLIND PERSONS.

No. 140 (Senate Bill No. 49).

AN ACT

To amend Chapter 15 of Title 34 of the Official Code of Georgia Annotated, relating to transfer of Division of Rehabilitation Services to Department of Labor, so as to provide for the delivery of certain services and techniques to deaf-blind individuals by an organization knowledgeable on deaf-blind issues; to provide that the division integrates the services and techniques into its standard practices and procedures; to provide for a time frame to retain the services of an organization to provide services and techniques to deaf-blind individuals and training on such services and techniques; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 15 of Title 34 of the Official Code of Georgia Annotated, relating to transfer of Division of Rehabilitation Services to Department of Labor, is amended by adding a new Code section to read as follows:

"34-15-20.

(a) The Division of Rehabilitation Services of the Department of Labor shall oversee the delivery of deaf-blind services and techniques provided by an organization pursuant to subsection (c) of this Code section that lead to maximum independence and employment for individuals with both a hearing and a vision loss. These services shall include, but not be limited to, transition of deaf-blind youth from education to the workforce; identification of deaf-blind individuals in Georgia; communication access for varying groups of individuals and their unique needs; training deaf-blind individuals in orientation and mobility, rehabilitation, and Braille; utilization of support service providers to function as sighted guides, communication facilitators, and providers of transportation; support and increase in the number of qualified sign language interpreters working with deaf-blind individuals; use of adaptive technologies, such as computers, telebraillers, and TTY devices; strategies and techniques to assist deaf-blind individuals in obtaining the highest level of independence possible; and peer support which provides access to information, people, and places.

(b) The division shall, to the greatest extent possible, integrate the services and techniques required pursuant to subsection (a) of this Code section into its standard practices and

procedures with the objective of providing appropriate services in an appropriate manner to individuals in the deaf-blind community.

(c) Subject to appropriations by the General Assembly, the Division of Rehabilitation Services shall retain an organization knowledgeable on deaf-blind issues to provide the services and techniques included in subsection (a) of this Code section to deaf-blind individuals and to provide comprehensive training to division staff on such services and techniques required pursuant to subsection (a) of this Code section. Such organization shall be retained no later than six months after funding from appropriations by the General Assembly has been made available for expenditure by the department."

SECTION 2.

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

Approved May 18, 2007.

DEDICATING THE WILLIAM H. "SONNY BOY" SKIPPER MAINTENANCE HEADQUARTERS.

No. 141 (Senate Resolution No. 68).

A RESOLUTION

To dedicate the William H. "Sonny Boy" Skipper Maintenance Headquarters; and for other purposes.

WHEREAS, William H. "Sonny Boy" Skipper served as the Georgia Department of Transportation Highway Maintenance Foreman for Long County from December 18, 1968, to April 30, 1999; and

WHEREAS, he served the Department of Transportation as an outstanding ambassador and served the citizens of Long County as an outstanding public servant; and

WHEREAS, he was elected to the Long County Board of Commissioners in November, 2004, and was supposed to take office in January, 2005; however, due to his untimely death on December 31, 2004, he never took the commission seat to which his fellow citizens had elected him.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the Georgia Department of Transportation Long County Maintenance

Headquarters be dedicated as the William H. "Sonny Boy" Skipper Maintenance Headquarters in memory of the outstanding public service he rendered and that the Department of Transportation is authorized and directed to place and maintain appropriate markers dedicating the William H. "Sonny Boy" Skipper Maintenance Headquarters.

BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized and directed to transmit appropriate copies of this resolution to the family of William H. "Sonny Boy" Skipper and to the Department of Transportation.

Approved May 18, 2007.

EDUCATION – SCHOOL COUNCILS; SCHOOL ADMINISTRATIVE MANAGERS; ALTERNATIVE TEACHING CERTIFICATIONS.

No. 142 (Senate Bill No. 72).

AN ACT

To amend Code Section 20-2-86 of the Official Code of Georgia Annotated, relating to operation of school councils, so as to delete language relating to membership on the school council; to provide that the parent members make up a majority on the school council; to provide that the chairperson shall be a parent member; to provide for transition; to amend Code Section 20-2-290 of the Official Code of Georgia Annotated, relating to organization of schools under the "Quality Basic Education Act," so as to authorize the employment of school administrative managers to conduct the financial and business affairs of a school; to amend Subpart 1 of Part 6 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the employment of certificated professional personnel in elementary and secondary education, so as to provide for alternative teaching certifications for secondary school teachers; to provide for a definition; to provide for statutory construction; to prohibit discrimination or disparate treatment for teachers and applicants for alternative certification; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 20-2-86 of the Official Code of Georgia Annotated, relating to operation of school councils, is amended by revising subsections (c), (d), (e), and (j) as follows:

"(c) Any member may withdraw from the council by delivering to the council a written resignation and submitting a copy to the secretary of the council or school principal. Should school councilmembers determine that a member of the council is no longer active in the council as defined by the bylaws of the council, the council may, by a majority vote, withdraw such person's membership status, effective as of a date determined by the council.

(d) The property and business of the council shall be managed by a minimum of seven school councilmembers of whom a majority shall constitute a quorum. The number of councilmembers shall be specified in the council's bylaws. Members of the school council shall include:

(1) A number of parents or guardians of students enrolled in the school, excluding employees who are parents or guardians of such students, so that such parents or guardians make up a majority of the council and at least two of whom shall be businesspersons;

(2) At least two certificated teachers, excluding any personnel employed in administrative positions, who are employed at least four of the six school segments at the school;

(3) The school principal; and

(4) Other members as specified in the council's bylaws, such as, but not limited to, students, staff, and representatives of school related organizations. Other businesspersons from the local business community may serve on the council and shall be selected by the other members of the school council. Selection procedures for these members and the business members shall be specified in the council's bylaws.

An employee of the local school system may serve as a parent representative on the council of a school in which his or her child is enrolled if such employee works at a different school. With the exception of the principal and the business representatives, members shall be elected by, and from among, the group they represent.

(e) Members of the council shall serve for a term of two years or for such other term as may be specified in the council's bylaws, except as provided in this subsection. The terms of the councilmembers shall be staggered. Upon the expiration of the terms of the two businessperson councilmembers in office on July 1, 2007, these member positions shall subsequently be filled by parent councilmembers; provided, however, that additional businesspersons may serve on the council if provided for in the council's bylaws in accordance with paragraph (4) of subsection (d) of this Code section. Councilmembers may serve more than one term. The office of school councilmember shall be automatically vacated:

(1) If a member shall resign;

(2) If the person holding the office is removed as a member by an action of the council pursuant to this Code section; or

(3) If a member no longer meets the qualifications specified in this Code section.

An election within the electing body for a replacement to fill the remainder of an unexpired term shall be held within 30 days, unless there are 90 days or less remaining in the term in which case the vacancy shall remain unfilled."

"(j)(1) The officers of the school council shall be a chairperson, vice chairperson, and secretary. Officers of the council shall be elected by the council at the first meeting of the council following the election of school councilmembers; provided, however, that the chairperson shall be a parent member. The officers of the council shall hold office for the term specified in the council's bylaws.

(2) The vice chairperson shall, in the absence or disability of the chairperson, perform the duties and exercise the powers of the chairperson and shall perform such other duties as shall be required by the council.

(3) The secretary shall attend all meetings, act as clerk of the council, and be responsible for recording all votes and minutes of all proceedings in the books to be kept for that purpose. The secretary shall give or cause to be given notice of all meetings of the council and shall perform such other duties as may be prescribed by the council."

SECTION 2.

Code Section 20-2-290 of the Official Code of Georgia Annotated, relating to organization of schools under the "Quality Basic Education Act," is amended by revising subsection (a) as follows:

"(a)(1) The board of education of any local school system is authorized to organize or reorganize the schools and fix the grade levels to be taught at each school in its jurisdiction. Local school systems which have organized their schools in such a manner that facilities house grades six, seven, and eight or grades seven and eight shall qualify for the middle school program for students in grade levels so housed. A school which houses grades other than six, seven, or eight shall only be eligible if it has a full-time principal for grades seven and eight or six, seven, and eight and another full-time principal for grades above or below the middle school grades; provided, however, that such schools also meet all other provisions of this Code section. Schools with students in the sixth grade shall not be eligible for the middle school program if the sixth grades are not housed in middle schools which also contain both grades seven and eight. Further, two or more adjacent local school systems shall qualify for the middle school program if through their contractual arrangement they jointly meet the requirements of this Code section and the criteria and standards prescribed by the state board.

(2) The board of education of any local school system shall be authorized to employ school administrative managers in lieu of or in addition to assistant principals. Such school administrative managers shall not be required to be certificated by the Professional Standards Commission but shall have such qualifications as determined by the local

board with a minimum requirement of a bachelor's degree. The duties of school administrative managers shall be to oversee and manage the financial and business affairs of the school. The principal shall retain authority over the curriculum and instructional areas. The school administrative manager shall report directly to the principal. In the event that a local board considers hiring or utilizing school administrative managers pursuant to this subsection, it shall receive and give all due consideration to recommendations by the school council as to whether or not to utilize such position and as to selection of the manager. Existing employees of the local board shall be eligible to serve as school administrative managers if they meet other qualifications and requirements established by the local board for such position. For purposes of earning funds for such positions, school administrative managers shall be treated in all respects the same as assistant principals."

SECTION 3.

Subpart 1 of Part 6 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the employment of certificated professional personnel in elementary and secondary education, is amended in Code Section 20-2-200, relating to teacher certification, as follows:

"20-2-200.

(a) The Professional Standards Commission shall provide, by regulation, for certifying and classifying all certificated professional personnel employed in the public schools of this state. No such personnel shall be employed in the public schools of this state unless they hold certificates issued by the commission certifying their qualifications and classification in accordance with such regulations. The commission shall establish such number of classifications of other certificated professional personnel as it may find reasonably necessary or desirable for the operation of the public schools; provided, however, that such classifications shall be based only upon academic, technical, and professional training, experience, and competency of such personnel. The commission is authorized to provide for denying a certificate to an applicant, suspending or revoking a certificate, or otherwise disciplining the holder of a certificate for good cause after an investigation is held and notice and an opportunity for a hearing are provided the certificate holder or applicant in accordance with subsection (d) of Code Section 20-2-984.5. The commission shall designate and define the various classifications of professional personnel employed in the public schools of this state that shall be required to be certificated under this Code section or under Code Section 20-2-206. Without limiting the generality of the foregoing, the term 'certificated professional personnel' is defined as all professional personnel certificated by the commission and county or regional librarians.

(b)(1) The Professional Standards Commission shall establish rules and regulations for appropriate requirements and procedures to ensure high-quality certification standards for all Georgia educators while facilitating the interstate mobility of out-of-state certified educators.

(2) Requirements established for initial certification applicants new to the profession, to include out-of-state program completers with or without certificates and with no teaching experience, may include, but are not limited to, demonstrated satisfactory proficiency in the following: a test of broad general knowledge; a test of specific subject matter content or other professional knowledge appropriate to the applicant's field of certification; computer skill competency; standards of ethical conduct; and course work in the identification and education of children who have special educational needs; provided, however, that this paragraph shall not be construed to apply to alternative certification requirements as provided in Code Section 20-2-206.

(3) Requirements established for holders of valid, professional out-of-state certificates applying for their first Georgia certificate may include, but are not limited to the following: computer skill competency; course work in the identification and education of children who have special educational needs; recency of study; and standards of ethical conduct. These requirements may be completed during the validity period of the first Georgia certificate. At the time of application for the first Georgia certificate, satisfactory proficiency in subject matter content appropriate to the applicant's field of certification may be determined based on Professional Standards Commission approved tests or combinations of successful teaching experience and academic, technical, and professional preparation as outlined in rules of the Professional Standards Commission.

(4) Requirements for certification renewal shall be established to foster ongoing professional learning, enhance student achievement, and verify standards of ethical conduct. Such requirements may include, but are not limited to, professional learning related to school improvement plans or the applicant's field of certification and background checks. Should the Professional Standards Commission include a requirement to demonstrate computer skill competency, the rules and regulations shall provide that a certificated educator may elect to meet the requirement by:

(A) Completing a course in computer skill competency, including but not limited to the phase one InTech model training program; or

(B) Receiving satisfactory results on a test in basic computer skill competency. If a certificated educator elects to take such test pursuant to this subparagraph, the local school system by which such educator is employed shall make available the opportunity to take the test on site at the school in which the educator is assigned. Each principal shall identify an administrator on site at each school to serve as a proctor for individuals taking the test pursuant to this subparagraph.

Individuals holding a valid Georgia life certificate or a valid National Board for Professional Teaching Standards certificate shall be deemed to have met state renewal requirements except those related to background checks.

(5) Requirements designating approved in-field assignment standards appropriate to the applicant's field of certification shall be established to ensure that educators are assigned to those areas for which they are properly prepared. These standards may be determined

based on reviews of state approved curriculum courses, state approved preparation programs, and designated certificate fields.

(c) An individual who has received two unsatisfactory annual performance evaluations in the previous five-year period pursuant to Code Section 20-2-210 shall not be entitled to a renewable certificate prior to demonstrating that such performance deficiency has been satisfactorily addressed, but such individual may apply to the commission for a nonrenewable certificate.

(d) No applicant who is under review by the commission shall be allowed to withdraw his or her application for a certificate, permit, or other certification document without the written consent of the commission. The commission shall retain its authority over those applicants to proceed with the denial of the certificate, permit, or other certification document upon any ground provided by law, or to enter an order denying the certificate, permit, or other certification document upon any ground provided by law. The suspension or expiration of any certificate, permit, or certification document, or its surrender without the written consent of the commission, shall not deprive the commission of its authority to do any of the following:

(1) Institute or continue a disciplinary proceeding against the holder of a certificate, permit, or other certification document upon any ground provided by law;

(2) Enter an order suspending or revoking the certificate, permit, or other certification document; or

(3) Issue an admonition to the holder of a certificate, permit, or other certification document.

(e)(1) The Professional Standards Commission shall charge the following fees to persons who file applications with the commission under its regulations adopted pursuant to the authority of this Code section:

(A) For an applicant for initial certification who is not currently employed in Georgia public or private schools.	$ 20.00
(B) For an applicant for initial certification who is not a graduate of an accredited education program from a Georgia college or university.	20.00
(C) For an applicant for a higher certificate when the applicant then holds a Georgia certificate but who is not currently employed in Georgia public or private schools.	20.00
(D) For an applicant for a certificate which adds a field or which endorses a certificate but who is not currently employed in Georgia public or private schools.	20.00
(E) For an applicant for a conditional certificate.	20.00

(F) For an applicant for the renewal of any certificate if the applicant is not currently employed by a public or private school in Georgia. 20.00

(G) For evaluating transcripts where certificates are not issued and for issuing duplicate copies of certificates. 20.00

(2) The fees provided for in paragraph (1) of this subsection shall be paid by an applicant by cashier's check or money order as a condition for filing the application.

(3) The fees provided for in this subsection shall be paid by the commission into the general funds of the state. The commission shall adopt regulations to carry out the provisions of this subsection.

(f) As used in this part, unless the context indicates otherwise, the term 'commission' means the Professional Standards Commission established under Part 10 of Article 17 of this chapter."

SECTION 4.

Said subpart is further amended by adding a new Code section to read as follows:

"20-2-206.

(a) For purposes of this Code section, the term 'core academic subject' means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, or geography.

(b)(1) Each local school system may provide an alternative teacher certification program upon approval by the Professional Standards Commission for a secondary school teacher candidate to teach a course or courses in a core academic subject who:

(A) Possesses a master's degree, doctoral degree, or Juris Doctor in each academic subject in which the candidate will teach;

(B) Receives high-quality professional development that is sustained, intensive, and classroom focused in order to have a positive and lasting impact on classroom instruction, before and while teaching;

(C) Participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program;

(D) Assumes functions as a teacher only for a specified period of time not to exceed three years; and

(E) Demonstrates satisfactory progress toward full certification as prescribed by the Professional Standards Commission.

(2) The Professional Standards Commission shall apply the least restrictive standards when approving a school system developed program under this subsection.

(3) Any teacher certified pursuant to this subsection shall be considered a highly qualified teacher for purposes of the federal No Child Left Behind Act (P.L. 107-110).

(c) Each local school system may provide an alternative teacher certification program upon approval by the Professional Standards Commission for a secondary school teacher candidate to teach a course or courses in a subject that is not a core academic subject who:

(1) Possesses a master's degree, doctoral degree, or Juris Doctor in each academic subject in which the candidate will teach; and

(2) Demonstrates satisfactory progress toward full certification as prescribed by the Professional Standards Commission.

(d) A teacher receiving initial certification pursuant to this Code section shall be treated in the same manner as certificated professional personnel for purposes of this chapter or any local board of education policy, including receiving salaries pursuant to the minimum salary schedule provided for in Code Section 20-2-212.

(e) A local school system shall not discriminate or treat differently in any manner a teacher possessing initial certification pursuant to this Code section, an applicant seeking initial certification pursuant to this Code section, or an individual meeting the requirement contained in subparagraph (b)(1)(A) or paragraph (1) of subsection (c) of this Code section and eligible for initial certification pursuant to this Code section, including, but not limited to, refusal to admit such teacher to a job fair or other teacher recruitment activity."

SECTION 5.

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

Approved May 18, 2007.

URGING THE NAMING OF A DISTRICT HEALTH OFFICE FACILITY HONORING DR. RAYMOND F. CORPE.

No. 143 (Senate Resolution No. 87).

A RESOLUTION

Urging the Georgia Department of Human Resources to name the district health office building to be built at Northwest Georgia Regional Hospital in honor of Dr. Raymond F. Corpe; and for other purposes.

WHEREAS, during the course of his extraordinary career, Dr. Raymond F. Corpe touched the lives of countless patients as a pioneer of tuberculosis research; and

WHEREAS, he graduated from medical school at the University of Illinois College in Chicago, after which he served his country honorably as a commissioned officer of the United States Public Health Service from 1943 to 1952; and

WHEREAS, after serving three years as chief of surgery at Battey State Hospital (now known as Northwest Georgia Regional Hospital), he became the hospital's superintendent; and

WHEREAS, under his direction, the physicians of Battey State Hospital spearheaded many revolutionary developments in the treatment of tuberculosis, including the discovery of the "Battey Strain" of the deadly disease; and

WHEREAS, Dr. Corpe's research in developing a drug treatment for tuberculosis has allowed those infected with tuberculosis to be treated at home through drug regimens rather than surgery or institutionalization; and

WHEREAS, thanks to his able leadership and brilliant contributions as a researcher, his hospital became one of the most renowned tuberculosis treatment centers in the world, serving as a beacon of hope to patients everywhere; and

WHEREAS, Dr. Corpe has left an enduring legacy to our children through his noble efforts to make this world a healthier and happier place.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the members of this body urge the Georgia Department of Human Resources to name the district health office building to be built at Northwest Georgia Regional Hospital in honor of Dr. Raymond F. Corpe.

BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized and directed to transmit an appropriate copy of this resolution to Dr. Raymond F. Corpe.

Approved May 18, 2007.

NUISANCES – AGRICULTURAL FACILITIES AND OPERATIONS; FOREST LAND.

No. 144 (Senate Bill No. 101).

AN ACT

To amend Code Section 41-1-7 of the Official Code of Georgia Annotated, relating to treatment of agricultural facilities and operations and forest land use as not being nuisances

under certain conditions, so as to redefine a term; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 41-1-7 of the Official Code of Georgia Annotated, relating to treatment of agricultural facilities and operations and forest land use as not being nuisances under certain conditions, is amended by revising paragraph (4.2) of subsection (b) as follows:

"(4.2) 'Forest products processing plant' means a commercial operation that manufactures, packages, labels, distributes, or stores any forest product or that manufactures, packages, labels, distributes, or stores any building material made from gypsum rock."

SECTION 2.

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

Approved May 18, 2007.

LABOR – SUBSEQUENT INJURY TRUST FUND; ASSESSMENTS.

No. 145 (Senate Bill No. 131).

AN ACT

To amend Article 9 of Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to the Subsequent Injury Trust Fund, so as to change certain provisions relating to payment of assessments to the fund by insurers and self-insurers; to provide for related matters; to provide for an effective date and intent; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 9 of Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to the Subsequent Injury Trust Fund, is amended by revising Code Section 34-9-358, relating to payment of assessments to the fund by insurers and self-insurers, as follows:

"34-9-358.

Each insurer and self-insurer under this chapter shall, under regulations prescribed by the board of trustees, make payments to the fund in an amount equal to that proportion of 175 percent of the total disbursement made from the fund during the preceding calendar year less the amount of the net assets in the fund as of December 31 of the preceding calendar year which the total workers' compensation claims paid by the insurer or self-insurer bears to the total workers' compensation claims paid by all insurers and self-insurers during the preceding calendar year. The administrator is authorized to reduce or suspend assessments for the fund when a completed actuarial survey shows further assessments are not needed. An employer who has ceased to be a self-insurer prior to the end of the calendar year shall be liable to the fund for the assessment of the calendar year. Such employer who has ceased to be a self-insurer shall continue to be liable to the fund for assessments in subsequent calendar years so long as payments are made on any workers' compensation claims made while in self-insured status. The initial assessment of each insurer or self-insurer for the purpose of generating revenue to begin operation of the fund shall be in the amount of one-half of 1 percent of the workers' compensation premiums collected by the insurer for the preceding calendar years from an employer who is subject to this chapter or the equivalent of such in the case of a self-insurer."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and is intended to authorize the Subsequent Injury Trust Fund to continue to make assessments against employers who were formerly self-insured and later obtained workers' compensation coverage. It is not intended to authorize assessments for time periods prior to the effective date of this Act.

SECTION 3.

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

Approved May 18, 2007.

URGING CONGRESS WITH RESPECT TO HEALTH SAVINGS ACCOUNTS AND HEALTH INSURANCE PREMIUMS.

No. 146 (Senate Resolution No. 139).

A RESOLUTION

Urging the Congress of the United States to raise the allowable deduction for health savings accounts, to allow certain older citizens to contribute additional amounts, and to make all health insurance premiums pre-tax; and for other purposes.

WHEREAS, currently contributions to health savings accounts (HSAs) are limited to a maximum for self-only coverage of $2,850.00 and, for families, the maximum contribution is $5,650.00; and

WHEREAS, currently only persons who are age 55 and older can make an extra catch-up contribution of $800.00 each year; and

WHEREAS, only persons who pay health insurance premiums through certain employer "cafeteria plans" can take full advantage of paying for health insurance with pre-tax dollars; and

WHEREAS, it would be advantageous to the citizens of this country to aid in funding their health insurance costs to utilize HSAs to the fullest extent possible and could improve the provision and affordability of health care services through a consumer driven health care model; and

WHEREAS, increasing the amount that individuals can contribute to their HSAs would allow citizens to accumulate funds to cover their health care needs over time; and

WHEREAS, older persons just beginning to fund HSAs need to be able to contribute more to "catch up" and offset their late start in using an HSA; and

WHEREAS, all citizens should be able to fund their health care premiums with pre-tax dollars.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the members of this body urge the Congress of the United States to increase the amount of contributions that individuals may make to their HSAs, to allow persons 45

years of age and older to contribute up to $10,000.00 each year as a "catch up" contribution, and to allow all individuals to pay for their health insurance premiums with pre-tax dollars.

BE IT FURTHER RESOLVED that the Secretary of the Senate is authorized and directed to transmit an appropriate copy of this resolution to the presiding officers of each house of the Congress of the United States and to each member of the Georgia congressional delegation.

Approved May 18, 2007.

REVENUE – INCOME TAXES; ADJUSTMENT FOR DISALLOWANCE; MILITARY INCOME EXEMPTION.

No. 147 (Senate Bill No. 184).

AN ACT

To amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, so as to provide for an additional adjustment to taxable income of corporations with respect to certain disallowances; to change certain provisions regarding the disallowances as a business expense of certain compensation paid by a taxpayer; to exempt military income received by a member of the national guard or any reserve component of the armed services of the United States stationed in defense of the borders of the United States pursuant to military orders; to provide for an additional adjustment to taxable income of certain taxpayers with respect to certain disallowances; to change certain provisions regarding definitions with respect to current income tax payment; to change certain provisions regarding collection and withholding of income taxes; to provide effective dates; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, is amended by adding a new paragraph in subsection (b) of Code Section 48-7-21, relating to taxation of corporations, to read as follows:

"(15) Georgia taxable income shall be increased by the amount of the payments, compensation, or other economic benefit disallowed by Code Section 48-7-21.1."

SECTION 2.

Said chapter is further amended by revising Code Section 48-7-21.1, relating to the disallowance as a business expense of certain compensation paid by a taxpayer, as follows:

"48-7-21.1.

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

(1) 'Authorized employee' means any individual whose hiring for employment or continuing employment in the United States does not violate the provisions of 8 U.S.C. Section 1324a.

(2) 'Basic pilot program' shall mean the electronic verification of a work authorization program of the Illegal Immigrant Reform and Immigrant Responsibility Act of 1996, P. L. 104-208, Division C, Section 1324a note, and operated by the United States Department of Homeland Security.

(3) 'Labor services' means the physical performance of services in this state.

(b) On or after January 1, 2008, no payment or compensation or other remuneration, including but not limited to wages, salaries, bonuses, benefits, in-kind exchanges, expenses, or any other economic benefit, paid for labor services to an individual totaling $600.00 or more in a taxable year, may be claimed and allowed as a deductible business expense for state income tax purposes by a taxpayer unless such individual is an authorized employee. The provisions of this subsection shall apply whether or not an Internal Revenue Service Form 1099 or Form W-2 is issued in conjunction with such payments, compensation, or other remuneration.

(c) This Code section shall not apply to any business which:

(1) Has enrolled and participates in the basic pilot program; or

(2) Is exempt from compliance with federal employment verification procedures under federal law which makes the employment of unauthorized aliens unlawful.

(d) This Code section shall not apply to any individual hired by the taxpayer prior to January 1, 2008.

(e) This Code section shall not apply to any taxpayer where the individual being paid is not directly compensated or employed by said taxpayer.

(f) This Code section shall not apply to payments, compensation, or other remuneration paid for labor services to any individual who holds and presents to the taxpayer a valid license or identification card issued by the Georgia Department of Driver Services.

(g) The commissioner is authorized to prescribe forms and promulgate rules and regulations deemed necessary in order to administer and effectuate this Code section."

SECTION 3.

Said chapter is further amended in paragraph (12) of subsection (a) of Code Section 48-7-27, relating to computation of taxable net income, as follows:

"(12) Military income received by a member of the national guard or any reserve component of the armed services of the United States stationed in a combat zone or

stationed in defense of the borders of the United States pursuant to military orders. The exclusion provided under this paragraph:

(A) Shall apply with respect to each taxable year, or portion thereof, covered by such military orders; and

(B) Shall apply only with respect to such member of the national guard or any reserve component of the armed forces and only with respect to military income earned during the period covered by such military orders."

SECTION 4.

Said chapter is further amended by adding a new paragraph in subsection (b) of Code Section 48-7-27, relating to the computation of taxable net income, to read as follows:

"(12) Georgia taxable income shall be increased by the amount of the payments, compensation, or other economic benefit disallowed by Code Section 48-7-21.1."

SECTION 5.

Said chapter is further amended by adding a new paragraph in Code Section 48-7-100, relating to definitions regarding current income tax payment, to read as follows:

"(11) 'Withholding agent' means any person required to deduct and withhold any tax under the provisions of Code Section 48-7-101."

SECTION 6.

Said chapter is further amended in subsection (i) of Code Section 48-7-101, relating to collection and withholding of income taxes, as follows:

"(i) *Form 1099 withholding and reporting.*

(1) A withholding agent shall be required to withhold state income tax at the rate of 6 percent of the amount of compensation paid for labor services as defined in paragraph (3) of Code Section 48-7-21.1 to an individual, which compensation is reported on Form 1099 and with respect to which the individual has:

(A) Failed to provide a taxpayer identification number;

(B) Failed to provide a correct taxpayer identification number. Except as to the withholding rate specified in this paragraph, such failure shall be determined in the same manner as provided for in Section 3406 of the Internal Revenue Code and regulations thereunder; or

(C) Provided an Internal Revenue Service issued taxpayer identification number issued for nonresident aliens.

(2) Any withholding agent who fails to comply with the withholding requirements of this subsection shall be liable for the taxes required to have been withheld unless such withholding agent is exempt from federal withholding with respect to such individual pursuant to a properly filed Internal Revenue Service Form 8233 and has provided a copy of such form to the commissioner."

SECTION 7.

(a) Except as otherwise provided in subsection (b) of this section, this Act shall become effective on July 1, 2007.

(b) Section 3 of this Act shall become effective January 1, 2008, and shall be applicable to all taxable years beginning on or after that date.

SECTION 8.

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

Approved May 18, 2007.

PENAL INSTITUTIONS – DEPARTMENT OF CORRECTIONS; POLICE POWERS; BADGE RETENTION.

No. 148 (Senate Bill No. 235).

AN ACT

To amend Code Section 42-5-35 of the Official Code of Georgia Annotated, relating to the conferral of police powers by the commissioner of the Department of Corrections, so as to provide that certified correctional employees of the Department of Corrections who leave the department under certain conditions may retain their badges; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 42-5-35 of the Official Code of Georgia Annotated, relating to the conferral of police powers by the commissioner of the Department of Corrections, is amended by adding a new subsection to read as follows:

"(c) Correctional employees leaving the service of the department under honorable conditions who have accumulated 25 or more years of service with the department as a certified peace officer or who are killed in the line of duty shall be entitled as part of such employee's compensation to retain his or her department issued badge or have such badge given to his or her surviving family member. If a correctional employee serving in a certified position leaves the service of the department due to a disability that arose in the line of duty and the disability prevents the employee from working as a law enforcement officer, then the employee shall be entitled as part of such employee's compensation to

retain his or her department issued badge regardless of his or her number of years of service with the department. The board is authorized to promulgate rules and regulations for the implementation of this subsection."

SECTION 2.

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

Approved May 18, 2007.

BUILDINGS – ADVISORY COMMITTEE ON INDUSTRIALIZED BUILDINGS; MEMBERS.

No. 149 (Senate Bill No. 246).

AN ACT

To amend Chapter 2 of Title 8 of the Official Code of Georgia Annotated, relating to standards and requirements for construction, alteration, etc. of buildings and other structures, so as to amend provisions relating to the appointment and vacancies of members to the advisory committee on industrialized buildings; to provide for changes to the composition of such committee; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 8 of the Official Code of Georgia Annotated, relating to standards and requirements for construction, alteration, etc. of buildings and other structures, is amended by revising subsection (d) of Code Section 8-2-113, relating to the advisory committee on industrialized buildings, as follows:

"(d) The commissioner shall consult with and obtain the advice of an advisory committee on industrialized buildings in the drafting, promulgation, and revision of rules and regulations to be adopted for the purpose of this part. The committee shall consist of 11 members appointed by the commissioner and approved by the Governor to serve at the commissioner's pleasure. Members shall be appointed for four-year terms, and no member of the committee shall be appointed to serve more than two full terms. Vacancies occuring during a term shall be filled by appointment by the commissioner for the remainder of the unexpired term, and such successor shall meet the requirements and criteria of selection of

the person previously holding the vacant position. To be eligible to serve on the committee, each individual member shall be and remain actively involved in the profession or industry of his or her appointed committee position. The position of any member of the committee who, during his or her term of appointment, shall cease to meet the qualifications for original appointment shall be deemed to be vacated. Members of said committee shall consist of technically qualified, interested, and affected persons appointed by the commissioner from the following professional, technical, and occupational fields:

(1) Two members shall be licensed design professionals representing two of the following: structural engineering, electrical engineering, architecture, or mechanical engineering;

(2) One member shall be a building code enforcement officer;

(3) One member shall be from the residential industrialized building industry;

(4) One member shall be from the commercial industrialized building industry;

(5) One member shall be from the industrialized building installation industry;

(6) One member shall be an elected member of the governing body of a municipality;

(7) One member shall be an elected member of the governing body of a county;

(8) One member shall be from the industrialized building evaluation-inspection service;

(9) One member shall be from a regional development center; and

(10) One member shall be the Commissioner of the Department of Community Affairs or his or her designee."

SECTION 2.

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

Approved May 18, 2007.

AGRICULTURE – SOIL AND WATER CONSERVATION DISTRICTS; SUPERVISORS; CHAIRPERSON; ELECTIONS.

No. 150 (Senate Bill No. 263).

AN ACT

To amend Article 2 of Chapter 6 of Title 2 of the Official Code of Georgia Annotated, relating to soil and water conservation districts, so as to change certain provisions relating to district supervisors and the chairperson, terms of elected offices, filling of vacancies, quorum, compensation, and expenses thereof; to provide for submission; to provide for

contingent repeal; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 6 of Title 2 of the Official Code of Georgia Annotated, relating to soil and water conservation districts, is amended by revising subsections (b) and (c) of Code Section 2-6-31, relating to district supervisors and the chairperson, terms of elected offices, filling of vacancies, quorum, compensation, and expenses thereof, as follows:

"(b)(1) The term of office of each elected supervisor shall be four years, except as otherwise provided by paragraph (2) of this subsection. An elected supervisor shall hold office until his or her successor has been elected and has qualified. Successors to elected supervisors shall be elected at the general election immediately preceding the expiration of terms and shall take office the first day of January immediately following that election.

(2)(A) The terms of those persons elected as supervisors in 2003 and whose terms have not expired as of the date that implementation of this paragraph is permissible under the Voting Rights Act of 1965, as amended, shall expire on December 31, 2008.

(B) The terms of those persons elected as supervisors in 2004 and whose terms have not expired as of the date that implementation of this paragraph is permissible under the Voting Rights Act of 1965, as amended, shall expire on December 31, 2008.

(C) The terms of those persons elected as supervisors in 2005 shall expire on December 31, 2010.

(D) The terms of those persons elected as supervisors in 2006 shall expire on December 31, 2010.

(E) If any persons were elected as supervisors on or after January 1, 2007, but prior to the date that implementation of this paragraph is permissible under the Voting Rights Act of 1965, as amended, then the terms of such persons shall expire on December 31, 2012.

(c) (1) Any vacancy in the office an appointed supervisor shall be filled for the unexpired term. The selection of any person to fill an unexpired term of an appointed supervisor shall be made in the same manner in which the original appointment was made.

(2) Any vacancy occurring in the office of an elected supervisor shall be filled as follows:

(A) If the vacancy occurs more than 90 days prior to the date of a general election preceding the general election at which a successor will be elected to a new full term of office, then such vacancy shall be filled for the unexpired term of office at a special election to be held on the same date as said general election preceding the general election at which a successor will be elected to a new full term of office; and in such case the Governor shall select a qualified person from among two persons nominated by the remaining supervisors of the district to fill the vacancy until the person elected at such special election takes office; and

(B) If the vacancy does not occur more than 90 days prior to the date of a general election preceding the general election at which a successor will be elected to a new full term of office, then the Governor shall select a qualified person from among two persons nominated by the remaining supervisors of the district to fill the vacancy for the unexpired term."

SECTION 2.

The Attorney General of Georgia shall cause this Act to be submitted for preclearance under the federal Voting Rights Act of 1965, as amended, and such submission shall be made to the United States Department of Justice or filed with the appropriate court no later than 45 days after the date on which this Act is approved by the Governor or becomes law without such approval. If as of June 30, 2008, implementation of this Act is not permissible under the Voting Rights Act of 1965, as amended, then as of such date this Act shall be void and shall stand repealed in its entirety.

SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 4.

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

Approved May 18, 2007.

COURTS – PIEDMONT CIRCUIT;
COURT TERMS.

No. 159 (House Bill No. 53).

AN ACT

To amend Code Section 15-6-3 of the Official Code of Georgia Annotated, relating to terms of court, so as to change certain provisions relating to the Piedmont Circuit; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 15-6-3 of the Official Code of Georgia Annotated, relating to terms of court, is amended by revising paragraph (32) as follows:

"(32) PIEDMONT CIRCUIT:

(A) Banks County — First Monday in February and August; and there shall be a grand jury for each term, but the grand jury shall not be required to be impaneled in the first day of each term.

(B) Barrow County — First Monday in February and August; and there shall be a grand jury for each term, but the grand jury shall not be required to be impaneled in the first day of each term.

(C) Jackson County — First Monday in February and August; and there shall be a grand jury for each term, but the grand jury shall not be required to be impaneled in the first day of each term."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 18, 2007.

EDUCATION – DEAF CHILD'S BILL OF RIGHTS.

No. 201 (Senate Bill No. 168).

AN ACT

To amend Part 3 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to educational programs under the "Quality Basic Education Act," so as to enact the "Deaf Child's Bill of Rights Act"; to provide for legislative findings; to provide for a definition; to require that a school system will take into account the specific communication needs of a deaf student; to provide for the explanation of options to the parent or guardian of a deaf student; to provide that a deaf student shall not be denied the opportunity for instruction in a particular communication mode or language; to provide for statutory construction; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Deaf Child's Bill of Rights Act."

SECTION 2.

(a) The General Assembly finds that:

(1) Students with low-incidence disabilities, as a group, make up less than 1 percent of the total state-wide enrollments for kindergarten through grade twelve; and

(2) Students with low-incidence disabilities require highly specialized services, equipment, and materials.

(b) The General Assembly further finds that:

(1) Deafness involves the most basic of human needs, which is the ability to communicate with other human beings. Many deaf and hard-of-hearing children use an appropriate communication mode, sign language, which may be their primary language, while others express and receive language orally and aurally, with or without visual signs or clues. Still others, typically young deaf and hard-of-hearing children, lack any significant language skills. It is essential for the well-being and growth of deaf and hard-of-hearing children that educational programs recognize the unique nature of deafness and ensure that all deaf and hard-of-hearing children have appropriate, ongoing, and fully accessible educational opportunities;

(2) It is essential that deaf and hard-of-hearing children, like all children, have an education in which their unique communication mode is respected, utilized, and developed to an appropriate level of proficiency;

(3) It is essential that deaf and hard-of-hearing children have an education in which teachers of the deaf and hard of hearing, psychologists, speech therapists, assessors, administrators, and other special education personnel understand the unique nature of deafness and are specifically trained to work with deaf and hard-of-hearing pupils. It is essential that deaf and hard-of-hearing children have an education in which teachers of the deaf and hard of hearing are proficient in the primary language mode of those children;

(4) It is essential that deaf and hard-of-hearing children, like all children, have an education with a sufficient number of language mode peers with whom they can communicate directly and who are of the same, or approximately the same, age and ability level;

(5) It is essential that deaf and hard-of-hearing children have an education in which their parents or guardians and, where appropriate, deaf and hard-of-hearing people are involved in determining the extent, content, and purpose of programs;

(6) Deaf and hard-of-hearing children would benefit from an education in which they are exposed to deaf and hard-of-hearing role models;

(7) It is essential that deaf and hard-of-hearing children, like all children, have programs in which they have direct and appropriate access to all components of the educational process, including, but not limited to, recess, lunch, and extracurricular social and athletic activities;

(8) It is essential that deaf and hard-of-hearing children, like all children, have programs in which their unique vocational needs are provided for, including appropriate research, curricula, programs, staff, and outreach;

(9) Each deaf or hard-of-hearing child should have a determination of the least restrictive environment that takes into consideration these legislative findings and declarations; and

(10) Given their unique communication needs, deaf and hard-of-hearing children would benefit from the development and implementation of state and regional programs for children with low-incidence disabilities.

SECTION 3.

Part 3 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to educational programs under the "Quality Basic Education Act," is amended by inserting a new Code section to read as follows:

"20-2-152.1.

(a) As used in this Code section, the term 'communication mode or language' means one or more of the following systems or methods of communication applicable to deaf and hard-of-hearing children:

(1) American Sign Language;

(2) English-based manual or sign systems; or

(3) Oral, aural, or speech-based training.

(b) In developing an individualized education program (IEP) pursuant to Code Section 20-2-152 for a child who is deaf or hard of hearing, in addition to any other requirements established by the state board, the local school system shall consider the related services and program options that provide the child with an appropriate and equal opportunity for communication access. The school system shall consider the child's specific communication needs and, to the extent possible under subsection (g) of this Code section, address those needs as appropriate in the child's individualized education program. In considering the child's needs, the school system shall expressly consider the following:

(1) The child's individual communication mode or language;

(2) The availability to the child of a sufficient number of age, cognitive, and language peers of similar abilities;

(3) The availability to the child of deaf or hard-of-hearing adult models of the child's communication mode or language;

(4) The provision of appropriate, direct, and ongoing language access to teachers of the deaf and hard of hearing and interpreters and other specialists who are proficient in the child's primary communication mode or language; and

(5) The provision of communication-accessible academic instruction, school services, and extracurricular activities.

(c) To enable a parent or guardian to make informed decisions concerning which educational options are best suited to the parent's or guardian's child, all of the educational options provided by the school system and available to the child at the time the child's individualized education program is prepared shall be explained to the parent or guardian.

(d) No deaf or hard-of-hearing child shall be denied the opportunity for instruction in a particular communication mode or language solely because:

(1) The child has some remaining hearing;

(2) The child's parent or guardian is not fluent in the communication mode or language being taught; or

(3) The child has previous experience with some other communication mode or language.

(e) Nothing in this Code section shall preclude instruction in more than one communication mode or language for any particular child. Any child for whom instruction in a particular communication mode or language is determined to be beneficial shall receive such instruction as part of the child's individualized education program.

(f) Notwithstanding the provisions of paragraph (2) of subsection (b) of this Code section, nothing in this Code section shall be construed to require that a specific number of peers be provided for a child who is deaf or hard of hearing.

(g) Nothing in this Code section shall require a school system to expend additional resources or hire additional personnel to implement the provisions of this Code section."

SECTION 4.

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

Approved May 23, 2007.

CRIMES – LAW ENFORCEMENT – MINORS; GBI INVESTIGATION AUTHORITY; COMPUTER OR ELECTRONIC PORNOGRAPHY AND CHILD EXPLOITATION ACT OF 2007.

No. 202 (Senate Bill No. 98).

AN ACT

To amend Titles 16 and 35 of the Official Code of Georgia Annotated, relating to crimes and offenses and law enforcement officers and agencies, respectively, so as to provide the Georgia Bureau of Investigation with the authority to investigate certain offenses against minors, including subpoena power; to change provisions relating to the "Computer Pornography and Child Exploitation Act of 1999"; to provide for a definition; to provide for an effective date; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is amended by revising Code Section 16-9-109, relating to disclosure by service providers pursuant to investigations, as follows:

"16-9-109.

(a) Any law enforcement unit, the Attorney General, or any district attorney who is conducting an investigation of a violation of this article or an investigation of a violation of Code Section 16-12-100, 16-12-100.1, 16-12-100.2, or 16-5-90 or Article 8 of this chapter involving the use of a computer, cellular telephone, or any other electronic device used in furtherance of the act may require the disclosure by a provider of electronic communication service or remote computing service of the contents of a wire or electronic communication that is in electronic storage in an electronic communications system for 180 days or less pursuant to a search warrant issued under the provisions of Article 2 of Chapter 5 of Title 17 by a court with jurisdiction over the offense under investigation. Such court may require the disclosure by a provider of electronic communication service or remote computing service of the contents of a wire or electronic communication that has been in electronic storage in an electronic communications system for more than 180 days as set forth in subsection (b) of this Code section.

(b)(1) Any law enforcement unit, the Attorney General, or any district attorney may require a provider of electronic communication service or remote computing service to disclose a record or other information pertaining to a subscriber to or customer of such

service, exclusive of the contents of communications, only when any law enforcement unit, the Attorney General, or any district attorney:

(A) Obtains a search warrant as provided in Article 2 of Chapter 5 of Title 17;

(B) Obtains a court order for such disclosure under subsection (c) of this Code section; or

(C) Has the consent of the subscriber or customer to such disclosure.

(2) A provider of electronic communication service or remote computing service shall disclose to any law enforcement unit, the Attorney General, or any district attorney the:

(A) Name;

(B) Address;

(C) Local and long distance telephone connection records, or records of session times and durations;

(D) Length of service, including the start date, and types of service utilized;

(E) Telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and

(F) Means and source of payment for such service, including any credit card or bank account number of a subscriber to or customer of such service when any law enforcement unit, the Attorney General, or any district attorney uses a subpoena authorized by Code Section 16-9-108, 35-3-4.1, or 45-15-17 or a grand jury or trial subpoena when any law enforcement unit, the Attorney General, or any district attorney complies with paragraph (1) of this subsection.

(3) Any law enforcement unit, the Attorney General, or any district attorney receiving records or information under this subsection shall not be required to provide notice to a subscriber or customer. A provider of electronic communication service or remote computing service shall not disclose to a subscriber or customer the existence of any search warrant or subpoena issued pursuant to this article nor shall a provider of electronic communication service or remote computing service disclose to a subscriber or customer that any records have been requested by or disclosed to any law enforcement unit, the Attorney General, or any district attorney pursuant to this article.

(c) A court order for disclosure issued pursuant to subsection (b) of this Code section may be issued by any superior court with jurisdiction over the offense under investigation and shall only issue such court order for disclosure if any law enforcement unit, the Attorney General, or any district attorney offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of an electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation. A court issuing an order pursuant to this Code section, on a motion made promptly by a provider of electronic communication service or remote computing service, may quash or modify such order, if compliance with such order would be unduly burdensome or oppressive on such provider.

(d)(1) Any records supplied pursuant to this part shall be accompanied by the affidavit of the custodian or other qualified witness, stating in substance each of the following:

(A) The affiant is the duly authorized custodian of the records or other qualified witness and has authority to certify the records;

(B) The copy is a true copy of all the records described in the subpoena, court order, or search warrant and the records were delivered to the attorney, the attorney's representative, or the director of the Georgia Bureau of Investigation or the director's designee;

(C) The records were prepared by the personnel of the business in the ordinary course of business at or near the time of the act, condition, or event;

(D) The sources of information and method and time of preparation were such as to indicate its trustworthiness;

(E) The identity of the records; and

(F) A description of the mode of preparation of the records.

(2) If the business has none or only part of the records described, the custodian or other qualified witness shall so state in the affidavit.

(3) If the original records would be admissible in evidence if the custodian or other qualified witness had been present and testified to the matters stated in the affidavit, the copy of the records shall be admissible in evidence. When more than one person has knowledge of the facts, more than one affidavit shall be attached to the records produced.

(4) No later than 30 days prior to trial, a party intending to offer such evidence produced in compliance with this subsection shall provide written notice of such intentions to the opposing party or parties. A motion opposing the admission of such evidence shall be filed within ten days of the filing of such notice, and the court shall hold a hearing and rule on such motion no later than ten days prior to trial. Failure of a party to file such motion opposing admission prior to trial shall constitute a waiver of objection to such records and affidavit. However, the court, for good cause shown, may grant relief from such waiver."

SECTION 2.

Said title is further amended by revising Code Section 16-12-100.2, relating to computer pornography and child exploitation prevention, as follows:

"16-12-100.2.

(a) This Code section shall be known and may be cited as the 'Computer or Electronic Pornography and Child Exploitation Prevention Act of 2007.'

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

(1) 'Child' means any person under the age of 16 years.

(2) 'Electronic device' means any device used for the purpose of communicating with a child for sexual purposes or any device used to visually depict a child engaged in sexually explicit conduct, store any image or audio of a child engaged in sexually explicit conduct, or transmit any audio or visual image of a child for sexual purposes. Such term may include, but shall not be limited to, a computer, cellular phone, thumb drive, video game

system, or any other electronic device that can be used in furtherance of exploiting a child for sexual purposes;

(3) 'Identifiable child' means a person:

(A) Who was a child at the time the visual depiction was created, adapted, or modified or whose image as a child was used in creating, adapting, or modifying the visual depiction; and

(B) Who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature or by electronic or scientific means as may be available.

The term shall not be construed to require proof of the actual identity of the child.

(4) 'Sadomasochistic abuse' has the same meaning as provided in Code Section 16-12-100.1.

(5) 'Sexual conduct' has the same meaning as provided in Code Section 16-12-100.1.

(6) 'Sexual excitement' has the same meaning as provided in Code Section 16-12-100.1.

(7) 'Sexually explicit nudity' has the same meaning as provided in Code Section 16-12-102.

(8) 'Visual depiction' means any image and includes undeveloped film and video tape and data stored on computer disk or by electronic means which is capable of conversion into a visual image or which has been created, adapted, or modified to show an identifiable child engaged in sexually explicit conduct.

(c)(1) A person commits the offense of computer or electronic pornography if such person intentionally or willfully:

(A) Compiles, enters into, or transmits by computer or other electronic device;

(B) Makes, prints, publishes, or reproduces by other computer or other electronic device;

(C) Causes or allows to be entered into or transmitted by computer or other electronic device; or

(D) Buys, sells, receives, exchanges, or disseminates

any notice, statement, or advertisement, or any child's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for the purpose of offering or soliciting sexual conduct of or with an identifiable child or the visual depiction of such conduct.

(2) Any person convicted of violating paragraph (1) of this subsection shall be punished by a fine of not more than $10,000.00 and by imprisonment for not less than one nor more than 20 years.

(d)(1) It shall be unlawful for any person intentionally or willfully to utilize a computer on-line service or Internet service, including but not limited to a local bulletin board service, Internet chat room, e-mail, on-line messaging service, or other electronic device, to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice a child or another person believed by such person to be a child to commit any illegal act described in Code Section 16-6-2, relating to the offense of sodomy or aggravated sodomy; Code

Section 16-6-4, relating to the offense of child molestation or aggravated child molestation; Code Section 16-6-5, relating to the offense of enticing a child for indecent purposes; or Code Section 16-6-8, relating to the offense of public indecency or to engage in any conduct that by its nature is an unlawful sexual offense against a child.

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than 20 years and by a fine of not more than $25,000.00; provided, however, that, if at the time of the offense the victim was 14 or 15 years of age and the defendant was no more than three years older than the victim, then the defendant shall be guilty of a misdemeanor of a high and aggravated nature.

(e)(1) A person commits the offense of obscene Internet contact with a child if he or she has contact with someone he or she knows to be a child or with someone he or she believes to be a child via a computer on-line service or Internet service, including but not limited to a local bulletin board service, Internet chat room, e-mail, or on-line messaging service, and the contact involves any matter containing explicit verbal descriptions or narrative accounts of sexually explicit nudity, sexual conduct, sexual excitement, or sadomasochistic abuse that is intended to arouse or satisfy the sexual desire of either the child or the person, provided that no conviction shall be had for a violation of this subsection on the unsupported testimony of a child.

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or by a fine of not more than $10,000.00; provided, however, that, if at the time of the offense the victim was 14 or 15 years of age and the defendant was no more than three years older than the victim, then the defendant shall be guilty of a misdemeanor of a high and aggravated nature.

(f)(1) It shall be unlawful for any owner or operator of a computer on-line service, Internet service, local bulletin board service, or other electronic device that is in the business of providing a service that may be used to sexually exploit a child to intentionally or willfully to permit a subscriber to utilize the service to commit a violation of this Code section, knowing that such person intended to utilize such service to violate this Code section. No owner or operator of a public computer on-line service, Internet service, local bulletin board service, or other electronic device that is in the business of providing a service that may be used to sexually exploit a child shall be held liable on account of any action taken in good faith in providing the aforementioned services.

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a misdemeanor of a high and aggravated nature.

(g) The sole fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this Code section shall not constitute a defense to prosecution under this Code section.

(h) A person is subject to prosecution in this state pursuant to Code Section 17-2-1, relating to jurisdiction over crimes and persons charged with commission of crimes

generally, for any conduct made unlawful by this Code section which the person engages in while:

(1) Either within or outside of this state if, by such conduct, the person commits a violation of this Code section which involves a child who resides in this state or another person believed by such person to be a child residing in this state; or

(2) Within this state if, by such conduct, the person commits a violation of this Code section which involves a child who resides within or outside this state or another person believed by such person to be a child residing within or outside this state.

(i) Any violation of this Code section shall constitute a separate offense."

SECTION 3.

Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and agencies, is amended in subsection (a) of Code Section 35-3-4, relating to powers and duties of the Georgia Bureau of Investigation, by striking "and" at the end of paragraph (8), by replacing the period with "; or" at the end of paragraph (9), and by adding a new paragraph to read as follows:

"(10) Identify and investigate violations of Part 2 of Article 3 of Chapter 12 of Title 16, relating to offenses related to minors."

SECTION 4.

Said title is further amended by revising Article 1 of Chapter 3, relating to general provisions relating to the Georgia Bureau of Investigation, by adding a new Code section to read as follows:

"35-3-4.1.

(a)(1) In any investigation of a violation of Code Section 16-12-100, 16-12-100.1, or 16-12-100.2 involving the use of a computer or an electronic device in furtherance of an act related to a minor, the director, assistant director, or deputy director for investigations shall be authorized to issue a subpoena, with the consent of the Attorney General, to compel the production of electronic communication service or remote communication service records or other information pertaining to a subscriber or customer of such service, exclusive of contents of communications.

(2) A provider of electronic communication service or remote computing service shall disclose to the bureau the:

(A) Name;

(B) Address;

(C) Local and long distance telephone connection records, or records of session times and durations;

(D) Length of service, including the start date, and types of service utilized;

(E) Telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and

(F) Means and source of payment for such service, including any credit card or bank account number of a subscriber to or customer of such service.

(b) Upon failure of a person without lawful excuse to obey a subpoena, the director, assistant director, or the deputy director for investigations, through the Attorney General or district attorney, may apply to a superior court having jurisdiction for an order compelling compliance. Such person may object to the subpoena on grounds that it fails to comply with this Code section or upon any constitutional or other legal right or privilege of such person. The court may issue an order modifying or setting aside such subpoena or directing compliance with the original subpoena.

(c) The Attorney General may request that a natural person who refuses to produce relevant matter on the ground that the production of records may incriminate such person be ordered by the court to provide such records. With the exception of a prosecution for perjury, a natural person who complies with the court order to provide such records asserting a privilege against self-incrimination to which he or she is entitled by law shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he or she may testify or produce evidence, documentary or otherwise.

(d)(1) Information obtained pursuant to a subpoena enforced by this Code section shall not be made public or, except as authorized in paragraph (2) of this subsection, disclosed by the director, assistant director, deputy director for investigations, or the director's employees beyond the extent necessary for the enforcement of this Code section.

(2) The director, assistant director, deputy director for investigations, or the director's employees shall be authorized to provide to any federal, state, or local law enforcement agency any information acquired under this Code section in furtherance of a criminal investigation in violation of Code Section 16-12-100, 16-12-100.1, or 16-12-100.2.

(e) As used in this Code section, the terms 'electronic communication service' and 'remote communication service' shall have the same meaning as set forth in Code Section 16-9-92."

SECTION 5.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 6.

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

Approved May 23, 2007.

EDUCATION – HANDICAPPED PERSONS – SIGN LANGUAGE.

No. 203 (Senate Bill No. 170).

AN ACT

To amend Part 3 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to educational programs under the "Quality Basic Education Act," so as to provide that American Sign Language can be used to fulfill the foreign language requirements for a college preparatory diploma for any student; to amend Chapter 1 of Title 30 of the Official Code of Georgia Annotated, relating to general provisions relative to handicapped persons, so as to recognize American Sign Language as an important language of the deaf community in Georgia; to provide for legislative findings; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 3 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to educational programs under the "Quality Basic Education Act," is amended by revising Code Section 20-1-151.1, relating to American Sign Language as a foreign language for college preparatory curriculum and for Carnegie unit elective credits, as follows:

"20-2-151.1.

(a) For the purpose of fulfilling the foreign language requirements for a college preparatory curriculum seal of endorsement on a high school diploma, a demonstrated proficiency in American Sign Language shall be accepted as a foreign language for any student by all local boards of education and the State Board of Education. A demonstrated proficiency in American Sign Language shall be accepted as the equivalent of the required two units of a foreign language.

(b) For the purpose of earning Carnegie unit curriculum credits at the high school level, American Sign Language may be accepted by the State Board of Education for two or more units of elective credit or for two or more units of foreign language credit, pursuant to subsection (a) of this Code section."

SECTION 2.

Chapter 1 of Title 30 of the Official Code of Georgia Annotated, relating to general provisions relative to handicapped persons, is amended by revising Code Section 30-1-6, which is reserved, to read as follows:

"30-1-6.

The General Assembly finds that:

(1) American Sign Language is a fully developed, autonomous, natural language with distinct grammar, syntax, and symbols, and is one of hundreds of signed languages of the world; and

(2) American Sign Language is the fourth most commonly used language in the United States and Canada."

SECTION 3.

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

Approved May 23, 2007.

HIGHWAYS – ALTERNATIVE TOURISM ROUTES; WELCOME CENTERS.

No. 204 (Senate Bill No. 282).

AN ACT

To amend Article 2 of Chapter 4 of Title 32 of the Official Code of Georgia Annotated, relating to the state highway system, so as to provide for the creation of alternative tourism routes; to provide for the designation of such routes; to provide for the construction and maintenance of welcome centers on such routes; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 4 of Title 32 of the Official Code of Georgia Annotated, relating to the state highway system, is amended by adding a new Code section to read as follows:

"32-4-24.

(a) The board shall designate as alternative tourism routes roads that are a part of the state highway system that traverse the state and pass through or in close proximity to historic sites or tourist attractions in the state. Interstate highways that traverse the state shall not be eligible for designation as an alternative tourism route. The initial alternative tourism routes shall be U. S. Highway 27 and U. S. Highway 441.

(b) The board shall consult with the Department of Economic Development, county governing authorities, and historical sites and tourist attractions located in this state in the selection of additional alternative tourism routes. The Department of Economic

Development shall promote such routes and sites and attractions along such routes to the motoring public.

(c) Subject to the appropriation process, the department may within five years of the designation of an alternative tourism route construct within 20 miles of the state line on each end of such route a welcome center. Subject to the appropriation process, if the department decides to construct such a center, it shall negotiate and contract with the local governing authorities where the welcome center is located for the maintenance and operation of such center."

SECTION 2.

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

Approved May 23, 2007.

LOCAL GOVERNMENT – ANNEXATION; DISPUTE RESOLUTION.

No. 205 (House Bill No. 2).

AN ACT

To amend Chapter 36 of Title 36 of the Official Code of Georgia Annotated, relating to annexation of territory, so as to provide that the provisions of Code Section 36-36-11, relating to the effect of an objection to land use following a rezoning and the minimum procedures for addressing related issues, shall not be used on or after September 1, 2007; to provide a procedure for resolving disputes between governing authorities relative to annexation; to provide for applicability; to provide for a notice of annexation; to provide for a prohibition on a change in zoning or land use; to provide for objection; to provide for grounds and procedures; to provide for an arbitration panel; to provide for membership, duties, and compensation; to provide for appeal; to provide for annexation following such procedures; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 36 of Title 36 of the Official Code of Georgia Annotated, relating to annexation of territory, is amended by revising subsection (a) of Code Section 36-36-11, relating to the effect of an objection to land use following a rezoning and the minimum procedures for addressing related issues, as follows:

"(a) The intent of this Code section is to provide a mechanism to resolve disputes over land use arising out of the rezoning of property to a more intense land use in conjunction with or subsequent to annexation in order to facilitate coordinated planning between counties and municipalities particularly with respect to areas contiguous to municipal boundaries; provided, however, that on and after September 1, 2007, such dispute resolutions shall be governed by the provisions of Article 7 of this chapter and the provisions of this Code section shall be limited to proceedings initiated prior to such date."

SECTION 2.

Said chapter is further amended by adding a new article to read as follows:

"ARTICLE 7

36-36-110.

The procedures of this article shall apply to all annexations pursuant to this chapter but shall not apply to annexations by local Acts of the General Assembly.

36-36-111.

Upon receipt of a petition of annexation, a municipal corporation shall notify the governing authority of the county in which the territory to be annexed is located by certified mail or by statutory overnight delivery. Such notice shall include a copy of the annexation petition which shall include the proposed zoning and land use for such area. The municipal corporation shall take no final action on such annexation except as otherwise provided in this article.

36-36-112.

If no objection is received as provided in Code Section 36-36-113, the annexation may proceed as otherwise provided by law; provided, however, that as a condition of the annexation the municipal corporation shall not change the zoning or land use plan relating to the annexed property to a more intense density than that stated in the notice provided for in Code Section 36-36-111 for one year after the effective date of the annexation unless such change is made in the service delivery agreement or comprehensive plan and is adopted by the affected city and county and all required parties.

36-36-113.

(a) The county governing authority may by majority vote object to the annexation because of a material increase in burden upon the county directly related to any one or more of the following:

(1) The proposed change in zoning or land use;

(2) Proposed increase in density; and

(3) Infrastructure demands related to the proposed change in zoning or land use.

(b) Delivery of services may not be a basis for a valid objection but may be used in support of a valid objection if directly related to one or more of the subjects enumerated in paragraphs (1), (2), and (3) of subsection (a) of this Code section.
(c) The objection provided for in subsection (a) of this Code section shall document the nature of the objection specifically providing evidence of any financial impact forming the basis of the objection and shall be delivered to the municipal governing authority by certified mail or statutory overnight delivery to be received not later than the end of the thirtieth calendar day following receipt of the notice provided for in Code Section 36-36-111.
(d) In order for an objection pursuant to this Code section to be valid, the proposed change in zoning or land use must:
(1) Result in:
(A) A substantial change in the intensity of the allowable use of the property or a change to a significantly different allowable use; or
(B) A use which significantly increases the net cost of infrastructure or significantly diminishes the value or useful life of a capital outlay project, as such term is defined in Code Section 48-8-110, which is furnished by the county to the area to be annexed; and
(2) Differ substantially from the existing uses suggested for the property by the county's comprehensive land use plan or permitted for the property pursuant to the county's zoning ordinance or its land use ordinances.

36-36-114.
(a) Not later than the fifteenth calendar day following the date the municipal corporation received the first objection provided for in Code Section 36-36-113, an arbitration panel shall be appointed as provided in this Code section.
(b) The arbitration panel shall be composed of five members to be selected as provided in this subsection. The Department of Community Affairs shall develop three pools of arbitrators, one pool which consists of persons who are currently or within the previous six years have been municipal elected officials, one pool which consists of persons who are currently or within the previous six years have been county elected officials, and one pool which consists of persons with a master's degree or higher in public administration or planning and who are currently employed by an institution of higher learning in this state, other than the Carl Vinson Institute of Government. The pool shall be sufficiently large to ensure as nearly as practicable that no person shall be required to serve on more than two panels in any one calendar year and serve on no more than one panel in any given county in any one calendar year. The department is authorized to coordinate with the Georgia Municipal Association, the Association County Commissioners of Georgia, the Council of Local Governments, and similar organizations in developing and maintaining such pools.
(c) Upon receiving notice of a disputed annexation, the department shall choose at random four names from the pool of municipal officials, four names from the pool of county officials, and three names from the pool of academics; provided, however, that none of

such selections shall include a person who is a resident of the county which has interposed the objection or any municipal corporation located wholly or partially in such county. The municipal corporation shall be permitted to strike or excuse two of the names chosen from the county officials pool; the county shall be permitted to strike or excuse two of the names chosen from the municipal officials pool; and the county and municipal corporation shall each be permitted to strike or excuse one of the names chosen from the academic pool.
(d) Prior to being eligible to serve on any of the three pools, persons interested in serving on such panels shall receive joint training in alternative dispute resolution together with zoning and land use training, which may be designed and overseen by the Carl Vinson Institute of Government in conjunction with the Association County Commissioners of Georgia and the Georgia Municipal Association, provided such training is available.
(e) At the time any person is selected to serve on a panel for any particular annexation dispute, he or she shall sign the following oath: 'I do solemnly swear or affirm that I will faithfully perform my duties as an arbitrator in a fair and impartial manner without favor or affection to any party, and that I have not and will not have any ex parte communication regarding the facts and circumstances of the matters to be determined, other than communications with my fellow arbitrators, and will only consider, in making my determination, those matters which may lawfully come before me.'

36-36-115.

(a)(1) The arbitration panel appointed pursuant to Code Section 36-36-114 shall meet as soon after appointment as practicable and shall receive evidence and argument from the municipal corporation, the county, and the applicant or property owner and shall by majority vote render a decision which shall be binding on all parties to the dispute as provided for in this article not later than the sixtieth day following such appointment. The meetings of the panel in which evidence is submitted or arguments of the parties are made shall be open to the public pursuant to Chapter 14 of Title 50. The panel shall first determine the validity of the grounds for objection as specified in the objection. If an objection involves the financial impact on the county as a result of a change in zoning or land use or the provision of maintenance of infrastructure, the panel shall quantify such impact in terms of cost. As to any objection which the panel has determined to be valid, the panel, in its findings, may establish reasonable zoning, land use, or density conditions applicable to the annexation and propose any reasonable mitigating measures as to an objection pertaining to infrastructure demands.

(2) In arriving at its determination, the panel shall consider:

(A) The existing comprehensive land use plans of both the county and city;

(B) The existing land use patterns in the area of the subject property;

(C) The existing zoning patterns in the area of the subject property;

(D) Each jurisdiction's provision of infrastructure to the area of the subject property;

(E) Whether the county has approved similar changes in intensity or allowable uses on similar developments in other unincorporated areas of the county;

(F) Whether the county has approved similar developments in other unincorporated areas of the county which have a similar impact on infrastructure as complained of by the county in its objection; and

(G) Whether the infrastructure or capital outlay project which is claimed adversely impacted by the county in its objection was funded by a county-wide tax.

(3) The county shall provide supporting evidence that its objection is consistent with its land use plan and the pattern of existing land uses and zonings in the area of the subject property.

(4) The county shall bear at least 75 percent of the cost of the arbitration. The panel shall apportion the remaining 25 percent of the cost of the arbitration equitably between the city and the county as the facts of the appeal warrant; provided, however, that if the panel determines that any party has advanced a position that is substantially frivolous, the costs shall be borne by the party that has advanced such position.

(5) The reasonable costs of participation in the arbitration process of the property owner or owners whose property is at issue shall be borne by the county and the city in the same proportion as costs are apportioned under paragraph (4) of this subsection.

(6) The panel shall deliver its findings and recommendations to the parties by certified mail or statutory overnight delivery.

(b) If the decision of the panel contains zoning, land use, or density conditions, the findings and recommendations of the panel shall be recorded in the deed records of the county with a caption describing the name of the current owner of the property, recording reference of the current owner's acquisition deed and a general description of the property, and plainly showing the expiration date of any restrictions or conditions.

(c) The arbitration panel shall be dissolved on the tenth day after it renders its findings and recommendations but may be reconvened as provided in Code Section 36-36-116.

(d) The members of the arbitration panel shall receive the same per diem, expenses, and allowances for their service on the committee as is authorized by law for members of interim legislative study committees.

(e) If the panel so agrees, any one or more additional annexation disputes which may arise between the parties prior to the panel's initial meeting may be consolidated for the purpose of judicial economy if there are similar issues of location or similar objections raised to such other annexations or the property to be annexed in such other annexations is within 2,500 feet of the subject property.

36-36-116.

The municipal or county governing authority or an applicant for annexation may appeal the decision of the arbitration panel by filing an action in the superior court of the county within ten calendar days from receipt of the panel's findings and recommendations. The sole grounds for appeal shall be to correct errors of fact or of law, the bias or misconduct of an arbitrator, or the panel's abuse of discretion. The superior court shall schedule an expedited appeal and shall render a decision within 20 days from the date of filing. If the

court finds that an error of fact or law has been made, that an arbitrator was biased or engaged in misconduct, or that the panel has abused its discretion, the court shall issue such orders governing the proposed annexation as the circumstances may require, including remand to the panel. Any unappealed order shall be binding upon the parties. The appeal shall be assigned to a judge who is not a judge in the circuit in which the county is located.

36-36-117.
If the annexation is completed after final resolution of any objection, whether by agreement of the parties, act of the panel, or court order as a result of an appeal, the municipal corporation shall not change the zoning, land use, or density of the annexed property for a period of one year unless such change is made in the service delivery agreement or comprehensive plan and adopted by the affected city and county and all required parties. Following the conclusion of the dispute resolution process outlined in this article, the municipal corporation and an applicant for annexation may either accept the recommendations of the arbitration panel and proceed with the remaining annexation process or abandon the annexation proceeding. A violation of the conditions set forth in this Code section may be enforced thereafter at law or in equity until such conditions have expired as provided in this Code section.

36-36-118.
If at any time during the proceedings the municipal corporation or applicant abandons the proposed annexation, the county shall not change the zoning, land use, or density affecting the property for a period of one year unless such change is made in the service delivery agreement or comprehensive plan and adopted by the affected city and county and all required parties. A violation of the conditions set forth in this Code section may be enforced thereafter at law or in equity until such period has expired. After final resolution of any objection, whether by agreement of the parties, act of the panel, or any appeal from the panel's decision, the terms of such decision shall remain valid for the one-year period and such annexation may proceed at any time during the one year without any further action or without any further right of objection by the county.

36-36-119.
The county, the municipal governing authorities, and the property owner or owners shall negotiate in good faith throughout the annexation proceedings provided by this article and may at any time enter into a written agreement governing the annexation. If such agreement is reached after the arbitration panel has been appointed and before its dissolution, such agreement shall be adopted by the panel as its findings and recommendations. If such agreement is reached after an appeal is filed in the superior court and before the court issues an order, such agreement shall be made a part of the court's order. Any agreement reached as provided in this Code section shall be recorded as provided in Code Section 36-36-115."

SECTION 3.

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

Approved May 23, 2007.

PUBLIC OFFICERS – PUBLIC EMPLOYEES; REPORTING FRAUD, WASTE, AND ABUSE.

No. 206 (House Bill No. 16).

AN ACT

To amend Code Section 45-1-4 of the Official Code of Georgia Annotated, relating to complaints or information from public employees as to fraud, waste, and abuse in state programs and operations, so as to change certain definitions to include a broader list of employees, officials, and administrators who may be protected by the provisions of this Code section; to change the definition of "retaliate"; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 45-1-4 of the Official Code of Georgia Annotated, relating to complaints or information from public employees as to fraud, waste, and abuse in state programs and operations, is amended by revising paragraphs (3), (4), and (5) of subsection (a) as follows:

"(3) 'Public employee' means any person who is employed by the executive, judicial, or legislative branch of the state or by any other department, board, bureau, commission, authority, or other agency of the state. This term also includes all employees, officials, and administrators of any agency covered under the State Merit System of Personnel Administration and any local or regional governmental entity that receives any funds from the State of Georgia or any state agency.

(4) 'Public employer' means the executive, judicial, or legislative branch of the state; any other department, board, bureau, commission, authority, or other agency of the state which employs or appoints a public employee or public employees; or any local or regional governmental entity that receives any funds from the State of Georgia or any state agency.

(5) 'Retaliate' or 'retaliation' refers to the discharge, suspension, or demotion by a public employer of a public employee or any other adverse employment action taken by a public

employer against a public employee in the terms or conditions of employment for disclosing a violation of or noncompliance with a law, rule, or regulation to either a supervisor or government agency."

SECTION 2

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

Approved May 23, 2007.

HEALTH – ULTRASOUND OPPORTUNITIES; VOLUNTARY AND INFORMED CONSENT; ABORTIONS; REPORTING; PENALTIES.

No. 207 (House Bill No. 147).

AN ACT

To provide a short title; to provide for legislative findings and purpose; to amend Chapter 9A of Title 31 of the Official Code of Georgia Annotated, relating to the "Woman's Right to Know Act," so as to offer pregnant females an opportunity to undergo an ultrasound if such imaging is available and allow the woman to view the sonogram and listen to the fetal heartbeat, if present; to change certain provisions relating to voluntary and informed consent to abortions; to require certain information be made available by the Department of Human Resources; to change certain provisions relating to reporting requirements; to provide for civil and professional penalties; to provide for construction; to provide for severability; to provide for an effective date; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Woman's Ultrasound Right to Know Act."

SECTION 2.

(a) The General Assembly finds that:

(1) It is essential to the psychological and physical well-being of a woman considering an abortion that she receive complete and accurate information on the reality and status of her pregnancy and of her unborn child;

(2) The decision to abort "is an important and often a stressful one, and it is desirable and imperative that it be made with full knowledge of its nature and consequences." *Planned Parenthood v. Danforth,* 428 U.S. 52, 67 (1976); and

(3) The knowledgeable exercise of a woman's decision to have an abortion depends on the extent to which the woman receives sufficient information to make an informed choice between two alternatives: giving birth or having an abortion.

(b) Based on the findings in subsection (a) of this section, it is the purpose of this Act to:

(1) Ensure that every woman considering an abortion receive complete information on the reality and status of her pregnancy and of her unborn child and that every woman submitting to an abortion do so only after giving her voluntary and informed consent to the abortion procedure;

(2) Protect unborn children from a woman's uninformed decision to have an abortion;

(3) Reduce "the risk that a woman may elect an abortion, only to discover later, with devastating psychological consequences, that her decision was not fully informed" *Planned Parenthood v. Casey*, 505 U.S. 833, 882 (1992); and

(4) Adopt the construction of the term "medical emergency" accepted by the United States Supreme Court in *Planned Parenthood v. Casey*, 505 U.S. 833 (1992).

SECTION 3.

Chapter 9A of Title 31 of the Official Code of Georgia Annotated, relating to the "Woman's Right to Know Act," is amended by revising Code Section 31-9A-3, relating to voluntary and informed consent to abortion, as follows:

"31-9A-3.

No abortion shall be performed in this state except with the voluntary and informed consent of the female upon whom the abortion is to be performed. Notwithstanding any provision of law to the contrary, except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if:

(1) The female is told the following, by telephone or in person, by the physician who is to perform the abortion, by a qualified agent of the physician who is to perform the abortion, by a qualified agent of a referring physician, or by a referring physician, at least 24 hours before the abortion:

(A) The particular medical risks to the individual patient associated with the particular abortion procedure to be employed, when medically accurate;

(B) The probable gestational age of the unborn child at the time the abortion would be performed; and

(C) The medical risks associated with carrying the unborn child to term.

The information required by this paragraph may be provided by telephone without conducting a physical examination or tests of the patient, in which case the information required to be provided may be based on facts supplied to the physician by the female and whatever other relevant information is reasonably available to the physician. Such information may not be provided by a tape recording but must be provided during a

consultation in which the physician or a qualified agent of the physician is able to ask questions of the female and the female is able to ask questions of the physician or the physician's qualified agent. If in the medical judgment of the physician any physical examination, tests, or other information subsequently provided to the physician requires a revision of the information previously supplied to the patient, that revised information shall be communicated to the patient prior to the performance of the abortion. Nothing in this Code section may be construed to preclude provision of required information in a language understood by the patient through a translator;

(2) The female is informed, by telephone or in person, by the physician who is to perform the abortion, by a referring physician, or by a qualified agent of the physician who is to perform the abortion at least 24 hours before the abortion:

(A) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care;

(B) That the father will be liable pursuant to subsection (a) of Code Section 19-7-49 to assist in the support of her child;

(C) How to obtain a list of health care providers, facilities, and clinics that offer to perform ultrasounds free of charge; such list shall be arranged geographically and shall include the name, address, hours of operation, and telephone number of each listed entity; and

(D) That she has the right to review the printed materials described in Code Section 31-9A-4 and that these materials are available on a state sponsored website at a stated website address. The physician or the physician's qualified agent shall orally inform the female that materials have been provided by the State of Georgia and that they describe the unborn child, list agencies that offer alternatives to abortion, and contain information on fetal pain. If the female chooses to view the materials other than on the website, they shall either be given to her at least 24 hours before the abortion or mailed to her at least 72 hours before the abortion by certified mail, restricted delivery to addressee.

The information required by this paragraph may be provided by a tape recording if provision is made to record or otherwise register specifically whether the female does or does not choose to review the printed materials other than on the website;

(3) The female certifies in writing, prior to the abortion, that the information described in paragraphs (1) and (2) of this Code section has been furnished her and that she has been informed of her opportunity to review the information referred to in subparagraph (D) of paragraph (2) of this Code section;

(4) For all cases in which an ultrasound is performed prior to conducting an abortion or a pre-abortion screen:

(A) The woman shall at the conclusion of the ultrasound be offered the opportunity to view the fetal image and hear the fetal heartbeat. The active ultrasound image shall be of a quality consistent with standard medical practice in the community, contain the dimensions of the unborn child, and accurately portray the presence of external

members and internal organs, including but not limited to the heartbeat, if present or viewable, of the unborn child. The auscultation of fetal heart tone shall be of a quality consistent with standard medical practice in the community; and

(B) At the conclusion of these actions and prior to the abortion, the female certifies in writing that:

(i) She was provided the opportunity described in subparagraph (A) of this paragraph;

(ii) Whether or not she elected to view the sonogram; and

(iii) Whether or not she elected to listen to the fetal heartbeat, if present; and

(5) Prior to the performance of the abortion, the physician who is to perform the abortion or the physician's qualified agent receives a copy of the written certifications prescribed by paragraphs (3) and (4) of this Code section and retains them on file with the female's medical record for at least three years following the date of receipt."

SECTION 4.

Said chapter is further amended by revising subsection (a) of Code Section 31-9A-4, relating to information to be made available by the Department of Human Resources, format requirements, availability, and requirements for website, as follows:

"(a) The Department of Human Resources shall cause to be published in English and in each language which is the primary language of 2 percent or more of the state's population and shall cause to be available on the state website provided for in subsection (d) of this Code section the following printed materials in such a way as to ensure that the information is easily comprehensible:

(1) Geographically indexed materials designed to inform the female of public and private agencies and services available to assist a female through pregnancy, upon childbirth, and while the child is dependent, including adoption agencies, which shall include a comprehensive list of the agencies available, a description of the services they offer, and a description of the manner, including telephone numbers and website addresses, in which they might be contacted or, at the option of such department, printed materials including a toll-free, 24 hour telephone number which may be called to obtain, orally or by a tape recorded message tailored to the ZIP Code entered by the caller, such a list and description of agencies in the locality of the caller and of the services they offer;

(1.1) Geographically indexed materials designed to inform the female of public and private facilities and services available to assist a female with obtaining an ultrasound which shall include a comprehensive list of the facilities available, a description of the services they offer, and a description of the manner, including telephone numbers and website addresses, in which they might be contacted or, at the option of such department, printed materials including a toll-free, 24 hour telephone number which may be called to obtain, orally or by a tape recorded message tailored to the ZIP Code entered by the caller, such a list and description of facilities in the locality of the caller and of the services they offer;

(2) Materials designed to inform the female of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from the time when a female can be known to be pregnant to full term, including any relevant information on the possibility of the unborn child's survival and pictures representing the development of unborn children at two-week gestational increments, provided that any such pictures must contain the dimensions of the fetus and must be factually accurate for the stage of pregnancy depicted. The materials shall be objective, nonjudgmental, and designed to convey only factually accurate scientific information about the unborn child at the various gestational ages. The material shall also contain objective information describing the methods of abortion procedures commonly employed, the medical risks commonly associated with each such procedure, the possible detrimental psychological effects of abortion, and the medical risks commonly associated with carrying a child to term; and

(3) Materials with the following statement concerning unborn children of 20 weeks' or more gestational age:

'By 20 weeks' gestation, the unborn child has the physical structures necessary to experience pain. There is evidence that by 20 weeks' gestation unborn children seek to evade certain stimuli in a manner which in an infant or an adult would be interpreted to be a response to pain. Anesthesia is routinely administered to unborn children who are 20 weeks' gestational age or older who undergo prenatal surgery.'

The materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the unborn child at the various gestational ages."

SECTION 5.

Said chapter is further amended by revising subsection (a) of Code Section 31-9A-6, relating to reporting requirements, as follows:

"(a) The Department of Human Resources shall prepare a reporting form for physicians performing abortions in a health facility licensed as an abortion facility by the Department of Human Resources containing a reprint of this chapter and listing:

(1) The number of females to whom the physician provided the information described in paragraph (1) of Code Section 31-9A-3; of that number, the number to whom the information was provided by telephone and the number to whom the information was provided in person; and of each of those numbers, the number to whom the information was provided by a referring physician and the number to whom the information was provided by a physician who is to perform the abortion;

(2) The number of females to whom the physician or a qualified agent of the physician provided the information described in paragraph (2) of Code Section 31-9A-3; of that number, the number to whom the information was provided by telephone and the number to whom the information was provided in person; of each of those numbers, the number to whom the information was provided by a referring physician and the number to whom the information was provided by a physician who is to perform the abortion; and of each

of those numbers, the number to whom the information was provided by the physician and the number to whom the information was provided by a qualified agent of the physician;

(3) The number of females who availed themselves of the opportunity to obtain a copy of the printed information described in Code Section 31-9A-4, other than on the website, and the number who did not; and of each of those numbers, the number who, to the best of the reporting physician's information and belief, went on to obtain the abortion; and

(4) The number of females who were provided the opportunity to view the fetal image and hear the fetal heartbeat; of that number, the number who elected to view the sonogram and the number who elected to listen to the fetal heartbeat, if present."

SECTION 6.

Said chapter is further amended by adding a new Code section to read as follows:

"31-9A-6.1.

In addition to whatever remedies are available under the common or statutory law of this state, failure to comply with the requirements of this chapter shall be reported to the Composite State Board of Medical Examiners for disciplinary action."

SECTION 7.

Nothing in this Act shall be construed as creating or recognizing a right to abortion. It is not the intention of this Act to make lawful an abortion that is currently unlawful.

SECTION 8.

In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full force and effect as if the section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof. The General Assembly declares that it would have passed the remaining parts of this Act if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

SECTION 9.

This Act shall become effective on July 1, 2007.

SECTION 10.

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

Approved May 23, 2007.

SOCIAL SERVICES – PERSONAL CARE HOMES, PRIVATE HOME CARE PROVIDERS, COMMUNITY LIVING ARRANGEMENTS, AND CHILD WELFARE AGENCIES; CRIMINAL BACKGROUND INFORMATION.

No. 208 (House Bill No. 155).

AN ACT

To amend Chapter 2 of Title 49 of the Official Code of Georgia Annotated, relating to the Department of Human Resources, so as to permit the department to obtain criminal background information on owners of personal care homes, private home care providers, community living arrangements, and child welfare agencies; to provide for definitions; to provide for the establishment of a method of obtaining criminal history background checks; to prohibit certain owners with certain criminal records from operating licensed facilities; to provide for administrative remedies; to provide for confidentiality of certain information; to provide for rules and regulations; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 49 of the Official Code of Georgia Annotated, relating to the Department of Human Resources, is amended by adding a new Code section to read as follows:

"49-2-14.1.

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

(1) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of whether an appeal of the conviction has been sought.

(2) 'Crime' means commission of the following offenses:

(A) A violation of Code Section 16-5-1, relating to murder and felony murder;

(B) A violation of Code Section 16-5-21, relating to aggravated assault;

(C) A violation of Code Section 16-5-24, relating to aggravated battery;

(D) A violation of Code Section 16-5-70, relating to cruelty to children;

(E) A violation of Code Section 16-5-100, relating to cruelty to a person 65 years of age or older;

(F) A violation of Code Section 16-6-1, relating to rape;

(G) A violation of Code Section 16-6-2, relating to aggravated sodomy;

(H) A violation of Code Section 16-6-4, relating to child molestation;

(I) A violation of Code Section 16-6-5, relating to enticing a child for indecent purposes;

(J) A violation of Code Section 16-6-5.1, relating to sexual assault against persons in custody, detained persons, or patients in hospitals or other institutions;

(K) A violation of Code Section 16-6-22.2, relating to aggravated sexual battery;

(L) A violation of Code Section 16-8-41, relating to armed robbery;

(M) A violation of Code Section 30-5-8, relating to abuse, neglect, or exploitation of a disabled adult or elder person; or

(N) Any other offense committed in another jurisdiction that, if committed in this state, would be deemed to be a crime listed in this paragraph without regard to its designation elsewhere.

(3) 'Criminal record' means any of the following:

(A) Conviction of a crime;

(B) Arrest, charge, and sentencing for a crime where:

(i) A plea of nolo contendere was entered to the charge;

(ii) First offender treatment without adjudication of guilt pursuant to the charge was granted; or

(iii) Adjudication or sentence was otherwise withheld or not entered on the charge; or

(C) Arrest and being charged for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

(4) 'Facility' means a:

(A) Personal care home required to be licensed or permitted under Code Section 31-7-12;

(B) Private home care provider required to be licensed under Article 13 of Chapter 7 of Title 31;

(C) Community living arrangement subject to licensure under paragraph (16) of subsection (b) and subsection (c) of Code Section 37-1-20; or

(D) Child welfare agency, including a child-caring institution, child-placing agency, and maternity home required to be licensed under Code Section 49-5-12.

(5) 'GCIC' means the Georgia Crime Information Center established under Article 2 of Chapter 3 of Title 35.

(6) 'GCIC information' means criminal history record information as defined in Code Section 35-3-30.

(7) 'License' means the document issued by the department to authorize the facility to operate.

(8) 'Owner' means any individual or any person affiliated with a corporation, partnership, or association with 10 percent or greater ownership interest in a facility providing care to persons under the license of the facility in this state and who:

(A) Purports to or exercises authority of the owner in a facility;

(B) Applies to operate or operates a facility;

(C) Maintains an office on the premises of a facility;

(D) Resides at a facility;

(E) Has direct access to persons receiving care at a facility;

(F) Provides direct personal supervision of facility personnel by being immediately available to provide assistance and direction during the time such facility services are being provided; or

(G) Enters into a contract to acquire ownership of a facility.

(9) 'Records check application' means two sets of classifiable fingerprints and a records search fee to be established by the department by rule and regulation, payable in such form as the department may direct to cover the cost of obtaining criminal background information pursuant this Code section.

(b) An owner with a criminal record shall not operate or hold a license to operate a facility, and the department shall revoke the license of any owner operating a facility or refuse to issue a license to any owner operating a facility if it determines that such owner has a criminal record; provided, however, that an owner who holds a license to operate a facility on or before June 30, 2007, shall not have his or her license revoked prior to a hearing being held before a hearing officer pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

(c)(1) Prior to approving any license for a new facility and periodically as established by the department by rule and regulation, the department shall require an owner to submit a records check application. The department shall establish a uniform method of obtaining an owner's records check application.

(2)(A) Unless the department contracts pursuant to subparagraph (B) of this paragraph, the department shall transmit to the GCIC both sets of fingerprints and the records search fee from each fingerprint records check application. Upon receipt thereof, the GCIC shall promptly transmit one set of fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall retain the other set and promptly conduct a search of its records and records to which it has access. Within ten days after receiving fingerprints acceptable to the GCIC and the fee, the GCIC shall notify the department in writing of any criminal record or if there is no such finding. After a search of Federal Bureau of Investigation records and fingerprints and upon receipt of the bureau's report, the department shall make a determination about an owner's criminal record and shall notify the owner in writing as to the department's determination as to whether the owner has or does not have a criminal record.

(B) The department may either perform criminal background checks under agreement with the GCIC or contract with the GCIC and appropriate law enforcement agencies which have access to GCIC and Federal Bureau of Investigation information to have those agencies perform for the department criminal background checks for owners. The department or the appropriate law enforcement agencies may charge reasonable fees for performing criminal background checks.

(3)(A) The department's determination regarding an owner's criminal record, or any action by the department revoking or refusing to grant a license based on such

determination, shall constitute a contested case for purposes of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that any hearing required to be held pursuant thereto may be held reasonably expeditiously after such determination or action by the department.

(B) In a hearing held pursuant to subparagraph (A) of this paragraph or subsection (b) of this Code section, the hearing officer shall consider in mitigation the length of time since the crime was committed, the absence of additional criminal charges, the circumstances surrounding the commission of the crime, other indicia of rehabilitation, the facility's history of compliance with the regulations, and the owner's involvement with the licensed facility in arriving at a decision as to whether the criminal record requires the denial or revocation of the license to operate the facility. Where a hearing is required, at least 30 days prior to such hearing, the hearing officer shall notify the office of the prosecuting attorney who initiated the prosecution of the crime in question in order to allow the prosecutor to object to a possible determination that the conviction would not be a bar for the grant or continuation of a license as contemplated within this Code section. If objections are made, the hearing officer shall take such objections into consideration in considering the case.

(4) Neither the GCIC, the department, any law enforcement agency, nor the employees of any such entities shall be responsible for the accuracy of information nor have any liability for defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of information or determination based thereon pursuant to this Code section.

(d) All information received from the Federal Bureau of Investigation or the GCIC shall be for the exclusive purpose of approving or denying the granting of a license to a new facility or the revision of a license of an existing facility when a new owner is proposed and shall not be released or otherwise disclosed to any other person or agency except to any person or agency with a legal right to inspect the facility. All such information collected by the department shall be maintained by the department pursuant to laws regarding and the rules or regulations of the Federal Bureau of Investigation and the GCIC, as is applicable. Penalties for the unauthorized release or disclosure of any such information shall be as prescribed pursuant to laws regarding and rules or regulations of the Federal Bureau of Investigation and the GCIC, as is applicable.

(e) The requirements of this Code section are supplemental to any requirements for a license imposed by Article 3 of Chapter 5 of this title or Article 11 of Chapter 7 of Title 31.

(f) The department shall promulgate written rules and regulations to implement the provisions of this Code section."

SECTION 2.

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

Approved May 23, 2007.

COMMERCE – CONSERVATION – REVENUE – STATE GOVERNMENT – MOTOR FUEL PREPAID LOCAL TAXES; STATE AUTHORITIES; TAX EXEMPTIONS.

No. 209 (House Bill No. 219).

AN ACT

To amend Titles 10, 12, 48, and 52 of the Official Code of Georgia Annotated, relating, respectively to commerce and trade, conservation and national resources, revenue and taxation, and waters of the state, so as to provide for prepayments of certain local sales and use taxes with respect to motor fuels; to provide for procedures, conditions, and limitations; to change certain provisions regarding penalties; to change certain provisions regarding taxation of motor fuel; to change certain provisions regarding sales and use tax exemptions regarding motor fuel; to change certain provisions regarding refunds of motor fuel taxes; to change certain requirements regarding reports of motor fuel deliveries; to change certain provisions regarding the George L. Smith II Georgia World Congress Center Authority, the Jekyll Island-State Park Authority, and the Georgia Ports Authority so as to provide for a sales and use tax exemption with respect to certain property purchased by such authorities; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended in Code Section 48-8-2, relating to definitions, by revising paragraph (5.1) and adding a new paragraph as follows:

"(5.1) 'Prepaid state tax' means the tax levied under Code Section 48-8-30 in conjunction with Code Section 48-8-3.1 and Code Section 48-9-14 on the retail sale of motor fuels for highway use and collected prior to that retail sale. This tax is based upon the average retail sales price as set forth in Code Section 48-9-14.

(5.2) 'Prepaid local tax' means any local sales and use tax which is levied on the sale or use of motor fuel and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, known as the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965' or by or pursuant to Article 2, 2A, 3, or 4 of this chapter. Such tax is based on the same average retail sales price as set forth in subparagraph (b)(2)(B) of Code Section 48-9-14. Such price shall be used to compute the prepaid sales

tax rate for local jurisdictions by multiplying such retail price by the applicable rate imposed by the jurisdiction. The person collecting and reporting the prepaid local tax for the local jurisdiction shall provide a schedule as to which jurisdiction these collections relate. This determination shall be based upon the shipping papers of the conveyance that delivered the motor fuel to the dealer or consumer in the local jurisdiction. A seller may rely upon the representation made by the purchaser as to which jurisdiction the shipment is bound and prepare shipping papers in accordance with those instructions."

SECTION 2.

Said title is further amended in Code Section 48-8-30, relating to imposition of sales and use taxes, by adding new subsections (j) and (k) to read as follows:

"(j) In the event any distributor licensed under Chapter 9 of this title purchases any motor fuel on which the prepaid state tax or prepaid local tax or both have been imposed pursuant to this Code section and resells the same to a governmental entity that is totally or partially exempt from such tax under paragraph (1) of Code Section 48-8-3, such distributor shall be entitled to either a credit or refund. The amount of the credit or refund shall be the prepaid state tax or prepaid local tax or both rates for which such governmental entity is exempt multiplied by the gallons of motor fuel purchased for its exclusive use. To be eligible for the credit or refund, the distributor shall reduce the amount such distributor charges for the fuel sold to such governmental entity by an amount equal to the tax from which such governmental entity is exempt. Should a distributor have a liability under this Code section, the distributor may elect to take a credit for those sales against such liability.

(k) The prepaid local tax shall be imposed at the time tax is imposed under subparagraph (b)(2)(B) of Code Section 48-9-14."

SECTION 3.

Said title is further amended by revising subsection (f) of Code Section 48-8-50, relating to compensation of dealers, as follows:

"(f) The deduction authorized under this Code section shall be combined with and calculated with the deductions authorized under Code Section 48-8-87, Code Section 48-8-104, Code Section 48-8-113, Code Section 48-8-204, Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965,' and any other sales tax, use tax, or sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, by applying the deduction rate specified in this Code section against the combined total of all such taxes reported due on the same return."

SECTION 4.

Said title is further amended by revising Code Section 48-8-82, relating to imposition of the joint county and municipal sales and use tax, as follows:

"48-8-82.

When the imposition of a joint county and municipal sales and use tax is authorized according to the procedures provided in this article within a special district, the county whose geographical boundary is conterminous with that of the special district and each qualified municipality located wholly or partially within the special district shall levy a joint sales and use tax at the rate of 1 percent. Except as to rate, the joint tax shall correspond to the tax imposed and administered by Article 1 of this chapter. No item or transaction which is not subject to taxation by Article 1 of this chapter shall be subject to the tax levied pursuant to this article, except that the joint tax provided in this article shall be applicable to sales of motor fuels as prepaid local tax as that term is defined by paragraph (5.2) of Code Section 48-8-2 and shall be applicable to the sale of food and beverages only to the extent provided for in paragraph (57) of Code Section 48-8-3."

SECTION 5.

Said title is further amended by revising Code Section 48-8-87, relating to the administration and collection of the joint county and municipal sales and use tax, as follows:

"48-8-87.

The tax levied pursuant to this article shall be exclusively administered and collected by the commissioner for the use and benefit of each county whose geographical boundary is conterminous with that of a special district and of each qualified municipality located wholly or partially therein. Such administration and collection shall be accomplished in the same manner and subject to the same applicable provisions, procedures, and penalties provided in Article 1 of this chapter, except that the joint tax provided in this article shall be applicable to sales of motor fuels as prepaid local tax as that term is defined by paragraph (5.2) of Code Section 48-8-2; provided, however, that all moneys collected from each taxpayer by the commissioner shall be applied first to such taxpayer's liability for taxes owed the state. Dealers shall be allowed a percentage of the amount of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if such amount is not delinquent at the time of payment. The deduction shall be at the rate and subject to the requirements specified under subsections (b) through (f) of Code Section 48-8-50."

SECTION 6.

Said title is further amended by revising subsection (b) of Code Section 48-8-102, relating to the imposition of the homestead option sales and use tax, as follows:

"(b) When the imposition of a local sales and use tax is authorized according to the procedures provided in this article within a special district, the county whose geographical boundary is conterminous with that of the special district shall levy a local sales and use tax at the rate of 1 percent. Except as to rate, the local sales and use tax shall correspond to the tax imposed and administered by Article 1 of this chapter. No item or transaction which is not subject to taxation by Article 1 of this chapter shall be subject to the sales and

use tax levied pursuant to this article, except that the sales and use tax provided in this article shall be applicable to sales of motor fuels as prepaid local tax as that term is defined by paragraph (5.2) of Code Section 48-8-2 and shall be applicable to the sale of food and beverages only to the extent provided for in paragraph (57) of Code Section 48-8-3."

SECTION 7.

Said title is further amended by revising subsection (a) of Code Section 48-8-104, relating to the administration and manner of distribution of the homestead option sales and use tax, as follows:

"(a) The sales and use tax levied pursuant to this article shall be exclusively administered and collected by the commissioner for the use and benefit of each county whose geographical boundary is conterminous with that of a special district. Such administration and collection shall be accomplished in the same manner and subject to the same applicable provisions, procedures, and penalties provided in Article 1 of this chapter except that the sales and use tax provided in this article shall be applicable to sales of motor fuels as prepaid local tax as that term is defined by paragraph (5.2) of Code Section 48-8-2; provided, however, that all moneys collected from each taxpayer by the commissioner shall be applied first to such taxpayer's liability for taxes owed the state. Dealers shall be allowed a percentage of the amount of the sales and use tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if such amount is not delinquent at the time of payment. The deduction shall be at the rate and subject to the requirements specified under subsections (b) through (f) of Code Section 48-8-50."

SECTION 8.

Said title is further amended by revising subsection (c) of Code Section 48-8-110.1, relating to imposition of the county special purpose local option sales and use tax, as follows:

"(c) Any tax imposed under this part shall be at the rate of 1 percent. Except as to rate, a tax imposed under this part shall correspond to the tax imposed by Article 1 of this chapter. No item or transaction which is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed under this part, except that a tax imposed under this part shall apply to sales of motor fuels as prepaid local tax as that term is defined by paragraph (5.2) of Code Section 48-8-2 and shall be applicable to the sale of food and beverages as provided for in division (57)(D)(i) of Code Section 48-8-3."

SECTION 9.

Said title is further amended by revising Code Section 48-8-113, relating to the administration of the county special purpose local option sales and use tax, as follows:

"48-8-113.

A tax levied pursuant to this part shall be exclusively administered and collected by the commissioner for the use and benefit of the county and qualified municipalities within such

special district imposing the tax. Such administration and collection shall be accomplished in the same manner and subject to the same applicable provisions, procedures, and penalties provided in Article 1 of this chapter except that the sales and use tax provided in this article shall be applicable to sales of motor fuels as prepaid local tax as that term is defined by paragraph (5.2) of Code Section 48-8-2; provided, however, that all moneys collected from each taxpayer by the commissioner shall be applied first to such taxpayer's liability for taxes owed the state; and provided, further, that the commissioner may rely upon a representation by or in behalf of the county and qualified municipalities within the special district or the Secretary of State that such a tax has been validly imposed, and the commissioner and the commissioner's agents shall not be liable to any person for collecting any such tax which was not validly imposed. Dealers shall be allowed a percentage of the amount of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if such amount is not delinquent at the time of payment. The deduction shall be at the rate and subject to the requirements specified under subsections (b) through (f) of Code Section 48-8-50."

SECTION 10.

Said title is further amended by revising subparagraph (c)(1)(A) of Code Section 48-8-201, relating to imposition of the municipal water and sewer projects and costs tax, as follows:

"(A) Sales of motor fuels as prepaid local tax as that term is defined by paragraph (5.2) of Code Section 48-8-2;"

SECTION 11.

Said title is further amended by revising Code Section 48-8-204, relating to administration and collection of the municipal water and sewer projects and costs tax, as follows:

"48-8-204.

A tax levied pursuant to this article shall be exclusively administered and collected by the commissioner for the use and benefit of the municipality imposing the tax. Such administration and collection shall be accomplished in the same manner and subject to the same applicable provisions, procedures, and penalties provided in Article 1 of this chapter except that the sales and use tax provided in this article shall be applicable to sales of motor fuels as prepaid local tax as that term is defined by paragraph (5.2) of Code Section 48-8-2; provided, however, that all moneys collected from each taxpayer by the commissioner shall be applied first to such taxpayer's liability for taxes owed the state; and provided, further, that the commissioner may rely upon a representation by or in behalf of the municipality or the Secretary of State that such a tax has been validly imposed, and the commissioner and the commissioner's agents shall not be liable to any person for collecting any such tax which was not validly imposed. Dealers shall be allowed a percentage of the amount of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if such amount is not delinquent at the time of

payment. The deduction shall be at the rate and subject to the requirements specified under subsections (b) through (f) of Code Section 48-8-50."

SECTION 12.

Said title is further amended by revising subsections (d), (e), and (f) of Code Section 48-9-9, relating to reports of motor fuel deliveries, as follows:

"(d)(1) Every person transporting motor fuel over the public highways or navigable waters of this state shall have in such person's possession an invoice, bill of sale, or other document which identifies:

(A) The true name and address of the person from whom the motor fuel was received;

(B) The number of gallons originally received;

(C) The true name and address of every person who has received any part of the fuel;

(D) The number of gallons delivered to such persons; and

(E) The city or county and state of destination as represented to the transporter by the person who arranged the transportation.

(2) Failure to produce such invoice, bill of sale, or other document when demanded or failure of a document produced upon demand to meet the requirements of this Code section shall be prima-facie evidence of a violation of this article.

(3) The transporter shall leave a copy of the invoice, bill of lading, or other documentation with each person who receives the fuel into bulk storage for resale.

(e) Delivery of motor fuel from a transport tank truck or vessel directly into the fuel tank of any motor vehicle in this state is prohibited except in cases of emergency.

(f) Every person purchasing or otherwise acquiring motor fuel in bulk quantities for sale, use, or other disposition in this state who is not required to be licensed as a distributor by this article may be required to file by the twentieth day of each calendar month a report on forms prescribed by the commissioner to account for all such motor fuel acquired during the preceding calendar month. Every operator of a terminal who receives motor fuel in bulk for storage shall include on a report to the commissioner the names of all persons who are storing fuel in the terminal and the quantity received, stored, and delivered during the month on behalf of each such account. The report shall specify what portion of the deliveries recorded for each account were within the terminal to others and what portion was removed from the terminal facility via the loading rack. The report shall identify the city or county and state of destination of the deliveries as reflected on the bills of lading issued by the terminal operator."

SECTION 13.

Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is amended by revising Code Section 10-9-10, relating to the exemption from taxation of the George L. Smith II Georgia World Congress Center Authority, as follows:

"10-9-10.

It is found, determined, and declared that the creation of the authority and the carrying out of its corporate purposes are in all respects for the benefit of the people of this state and are public purposes and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter. The authority shall be required to pay no taxes or assessments upon any property acquired or under its jurisdiction, control, possession, or supervision or upon its activities in the development, construction, operation, or maintenance of any of the projects or facilities erected, maintained, or acquired by it or any fees, rentals, or other charges for the use of such facilities or other income received by the authority and shall not be subject to regulation of its activities in the acquisition, development, construction, operation, or maintenance of any of the projects or facilities acquired, developed, constructed, operated, or maintained by it by any county or municipal corporation of this state. The exemption from taxation provided for in this Code section shall include an exemption from sales and use tax on tangible personal property purchased by the authority for use exclusively by the authority. The revenue bonds or other evidence of indebtedness issued by the authority, their transfer, and the income therefrom shall at all times be exempt from taxation within this state by the state or its municipalities or political subdivisions."

SECTION 14.

Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural resources, is amended by revising Code Section 12-3-274, relating to the exemption from taxation of the Jekyll Island-State Park Authority, as follows:

"12-3-274.

It is found, determined, and declared that the creation of the authority and the carrying out of its corporate purpose are in all respects for the benefit of the people of this state and constitute a public purpose and that the authority will be performing an essential governmental function in the exercise of the power conferred upon it by this part. This state covenants with the holders of the bonds that the authority shall be required to pay no taxes or assessments upon any of the property acquired or leased by it, or under its jurisdiction, control, possession, or supervision, or upon its activities in the operation or maintenance of the buildings erected or acquired by it, or upon any fees, rentals, or other charges received by the authority for the use of such buildings, or upon other income received by the authority. The exemption from taxation provided for in this Code section shall include an exemption from sales and use tax on tangible personal property purchased by the authority for use exclusively by the authority. Further, this state covenants that the bonds of the authority, their transfer, and the income therefrom shall at all times be exempt from taxation within the state."

SECTION 15.

Title 52 of the Official Code of Georgia Annotated, relating to waters of the state, is amended by revising Code Section 52-2-37, relating to exemption from taxation of the Georgia Ports Authority; as follows:

"52-2-37.

It is found, determined, and declared that the creation of the authority and the carrying out of its corporate purpose is in all respects for the benefit of the people of this state and is a public purpose and that the authority will be performing an essential governmental function in the exercise of the power conferred upon it by this chapter; and this state covenants with the holders of the bonds that the authority shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession, or supervision or upon its activities in the operation or maintenance of the facilities erected, maintained, or acquired by it or any fees, rentals, or other charges for the use of such facilities or other income received by the authority and that the bonds of the authority, their transfer, and the income therefrom shall at all times be exempt from taxation within the state. The exemption from taxation provided for in this Code section shall include an exemption from sales and use tax on tangible personal property purchased by the authority for use exclusively by the authority."

SECTION 16.

Sections 13, 14, 15, this section, and Section 17 of this Act shall become effective on July 1, 2007. The remaining provisions of this Act shall become effective on January 1, 2008.

SECTION 17.

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

Approved May 23, 2007.

HANDICAPPED PERSONS –
GUIDE OR SERVICE DOGS.

No. 210 (House Bill No. 366).

AN ACT

To amend Chapter 4 of Title 30 of the Official Code of Georgia Annotated, relating to rights of persons with disabilities, so as to change provisions relating to right to equal public accommodations and to be accompanied by guide or service dog; to provide that every person engaged in the raising of a dog for training as a guide or service dog shall have the

right to be accompanied by such dog in the same manner as a totally or partially blind, deaf, or physically disabled person under certain conditions; to change provisions relating to denial or interference with the admittance to or enjoyment of facilities or exercise of rights; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 4 of Title 30 of the Official Code of Georgia Annotated, relating to rights of persons with disabilities, is amended by revising subsection (b) of Code Section 30-4-2, relating to right to equal public accommodations and to be accompanied by guide or service dog, as follows:

"(b)(1) Every totally or partially blind person shall have the right to be accompanied by a guide dog, and every physically disabled person and every deaf person shall have the right to be accompanied by a service dog, especially trained for the purpose, in any of the places listed in subsection (a) of this Code section without being required to pay an extra charge for the guide or service dog; provided, however, that he or she shall be liable for any damage done to the premises or facilities by such dog. In addition, if such totally or partially blind person, physically disabled person, or deaf person is a student at a private or public school in this state, such person shall have the right to be accompanied by a guide dog or service dog subject to liability for damage as provided in the preceding sentence. The guide dog or service dog must be identified as having been trained by a school for seeing eye, hearing, service, or guide dogs.

(2) Every person engaged in the training of a guide dog or service dog for the purpose of accompanying a person as provided in paragraph (1) of this subsection shall have the same right to be accompanied by such dog being trained as the totally or partially blind person, deaf person, or physically disabled person has under paragraph (1) of this subsection, so long as such trainer is identified as an agent or employee of a school for seeing eye, hearing, service, or guide dogs.

(3) Every person engaged in the raising of a dog for training as a guide dog or service dog for the purpose of accompanying a person as provided in paragraph (1) of this subsection shall have the same right to be accompanied by such dog being raised for training as the totally or partially blind person, deaf person, or physically disabled person has under paragraph (1) of this subsection, so long as:

(A) Such dog is being held on a leash and is under the control of the person raising such dog for an accredited school for seeing eye, hearing, service, or guide dogs;

(B) Such person has on his or her person and available for inspection credentials from the accredited school for which the dog is being raised; and

(C) Such dog is wearing a collar, leash, or other appropriate apparel or device that identifies such dog with the accredited school for which such dog is being raised."

SECTION 2.

Said chapter is further amended by revising Code Section 30-4-4, relating to denial of or interference with admittance to or enjoyment of facilities or exercise of rights, as follows:

"30-4-4.

Any person, firm, corporation, or the agent of any person, firm, or corporation who denies or interferes with admittance to or enjoyment of the facilities enumerated in this chapter or otherwise interferes with the rights of a totally or partially blind person, physically disabled person, or deaf person or person engaged in the training or raising of a guide dog or service dog as provided by this chapter shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be punished by a fine not to exceed $2,000.00, imprisonment for not more than 30 days, or both."

SECTION 3.

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

Approved May 23, 2007.

CRIMES – PUBLIC UTILITIES – 9-1-1 CALLS; UNLAWFUL CONDUCT; PREPAID WIRELESS SERVICE; EMERGENCY 9-1-1 ASSISTANCE FUND.

No. 211 (House Bill No. 394).

AN ACT

To amend Article 2 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against public order, so as to provide for the crime of unlawful conduct during 9-1-1 calls; to provide for criminal penalties; to amend Part 4 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to the emergency telephone number 9-1-1 system, so as to define certain terms; to provide for an accounting; to provide for a 9-1-1 surcharge on prepaid wireless service subscriptions; to provide for the collection of such surcharge and the deposit of the same into the state treasury; to provide for the Emergency 9-1-1 Assistance Fund; to provide a statement of intent with respect to the appropriation of funds; to provide for the lapse of unexpended amounts; to provide for administration of the fund by the Department of Community Affairs; to provide for grants from the Emergency 9-1-1 Assistance Fund; to provide certain uniform, state-wide training for directors of public safety answering points; to amend Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone and telegraph service, so as to revise

definitions for purposes of conformity; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against public order, is amended by inserting a new Code section to read as follows:

"16-11-39.2.

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

(1) 'Call' shall have the same meaning as set forth in paragraph (2.1) of Code Section 46-5-122.

(2) 'False report' means the fabrication of an incident or crime or of material information relating to an incident or crime which the person making the report knows to be false at the time of making the report.

(3) 'Harass' means to knowingly and willingly engage in any conduct directed toward a communications officer that is likely to impede or interfere with such communications officer's duties, that threatens such communication officer or any member of his or her family, or that places any member of the public served or to be served by 9-1-1 service in danger of injury or delayed assistance.

(4) 'Harassing' means the willful use of opprobrious and abusive language which has no legitimate purpose in relation to imparting information relevant to an emergency call.

(5) '9-1-1' means a public safety answering point as defined in paragraph (15) of Code Section 46-5-122. The term '9-1-1' also means the digits, address, Internet Protocol address, or other information used to access or initiate a call to a public safety answering point.

(b) A person commits the offense of unlawful conduct during a 9-1-1 telephone call if he or she:

(1) Without provocation, uses obscene, vulgar, or profane language with the intent to intimidate or harass a 9-1-1 communications officer;

(2) Calls or otherwise contacts 9-1-1, whether or not conversation ensues, for the purpose of annoying, harassing, or molesting a 9-1-1 communications officer or for the purpose of interfering with or disrupting emergency telephone service;

(3) Calls or otherwise contacts 9-1-1 and fails to hang up or disengage the connection for the intended purpose of interfering with or disrupting emergency service;

(4) Calls or otherwise contacts 9-1-1 with the intention to harass a communications officer; or

(5) Calls or otherwise contacts 9-1-1 and makes a false report.

(c) Any person who violates subsection (b) of this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $500.00 or 12 months in jail, or both.

(d) Any violation of subsection (b) of this Code section shall be considered to have been committed in any county where such call to or contact with 9-1-1 originated or in any county where the call to or contact with 9-1-1 was received."

SECTION 2.

Part 4 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to the emergency telephone number 9-1-1 system, is amended by revising Part 4 as follows:

"Part 4

46-5-120.

This part shall be known and may be cited as the 'Georgia Emergency Telephone Number 9-1-1 Service Act of 1977.'

46-5-121.

(a) The General Assembly finds and declares that it is in the public interest to shorten the time required for a citizen to request and receive emergency aid. There currently exist numerous different emergency phone numbers throughout the state. Provision for a single, primary three-digit emergency number through which emergency services can be quickly and efficiently obtained would provide a significant contribution to law enforcement and other public service efforts by making it easier to notify public safety personnel. Such a simplified means of procuring emergency services will result in the saving of lives, a reduction in the destruction of property, and quicker apprehension of criminals. It is the intent of the General Assembly to establish and implement a cohesive state-wide emergency telephone number 9-1-1 system which will provide citizens with rapid, direct access to public safety agencies by dialing telephone number 9-1-1 with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services.

(b) The General Assembly further finds and declares that the benefits of 9-1-1 service should be widely available, regardless of whether a 9-1-1 call is placed from a traditional landline telephone or from a wireless telephone. It is also in the public interest that users of wireless telephones should bear some of the cost of providing this life-saving service, as users of landline telephones currently do. It is the intent of the General Assembly to bring wireless telephone service within the scope of this part and to establish a means by which local public safety agencies may provide enhanced 9-1-1 service to wireless telephone users.

(c) The General Assembly further finds and declares that communication technology is rapidly and constantly changing. It is in the public interest that as different means of accessing 9-1-1 service emerge, that the users of such technology bear some of the cost of providing this life-saving service, as users of landline and wireless telephones currently do.

It is the intent of the General Assembly to bring these new and emerging technologies within the scope of this part and establish a means by which local public safety agencies may provide 9-1-1 service to such users.

(d) The General Assembly further finds and declares that the safety and well-being of the citizens of Georgia is of the utmost importance, and it is in the public interest to provide the highest level of emergency response service on a local, regional, and state-wide basis.

46-5-122.

As used in this part, the term:

(1) 'Addressing' means the assigning of a numerical address and street name (the name may be numerical) to each location within a local government's geographical area necessary to provide public safety service as determined by the local government. This address replaces any route and box number currently in place in the 9-1-1 data base and facilitates quicker response by public safety agencies.

(2) 'Agency' means the Georgia Emergency Management Agency established pursuant to Code Section 38-3-20 unless the context clearly requires otherwise.

(2.1) 'Call' means any communication, message, signal, or transmission.

(2.2) 'Center' means the Georgia Public Safety Training Center.

(2.3) 'Department' means the Department of Community Affairs established pursuant to Code Section 50-8-1.

(3) 'Director' means the director of emergency management appointed pursuant to Code Section 38-3-20.

(4) 'Cost recovery' means the mechanism by which service suppliers may recover the recurring and nonrecurring costs they expend on the implementation of wireless 9-1-1 services.

(5) 'Emergency 9-1-1 system' or '9-1-1 system' means a telephone service, computer service, wireless service, or other service which facilitates the placing of calls by persons in need of emergency services to a public safety answering point by dialing the telephone number 9-1-1 and under which calls to 9-1-1 are answered or otherwise responded to by public safety answering points established and operated by the local government subscribing to the 9-1-1 service. The term 'emergency 9-1-1 system' also includes 'enhanced 9-1-1 service,' which means an emergency system that provides the user with emergency 9-1-1 system service and, in addition, directs 9-1-1 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features.

(6) 'Enhanced ZIP Code' means a United States postal ZIP Code of 9 or more digits.

(7) 'Exchange access facility' means the access from a particular telephone subscriber's premises to the telephone system of a service supplier. Exchange access facilities include service supplier provided access lines, PBX trunks, and Centrex network access registers, all as defined by tariffs of the telephone companies as approved by the Georgia Public

Service Commission. The term 'exchange access facility,' also includes Voice over Internet Protocol service suppliers and any other communication, message, signal, or information delivery system capable of initiating a 9-1-1 emergency call. Exchange access facilities do not include service supplier owned and operated telephone pay station lines, Wide Area Telecommunications Services (WATS), Foreign Exchange (FX), or incoming only lines.

(8) 'FIPS' means the Federal Information Processing Standard (FIPS) 55-3 or any future enhancement.

(9) 'Local government' means any city, county, military base, or political subdivision of Georgia and its agencies.

(10) 'Mobile telecommunications service' means commercial mobile radio service, as such term is defined in 47 C.F.R. Section 20.3.

(11) '9-1-1 charge' means a contribution to the local government for the 9-1-1 service start-up equipment costs, subscriber notification costs, addressing costs, billing costs, nonrecurring and recurring installation, maintenance, service, and network charges of a service supplier providing 9-1-1 service pursuant to this part, and costs associated with the hiring, training, and compensating of dispatchers employed by the local government to operate said 9-1-1 system at the public safety answering points.

(11.1) '9-1-1 number' means the digits, address, Internet Protocol address, or other information used to access or initiate a call to a public safety answering point.

(12) 'Place of primary use' means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer.

(12.1) 'Prepaid wireless service' means any method pursuant to which a customer pays a wireless service provider in advance for a wireless telecommunications connection. Such term shall include, without limitation, calling or usage privileges included with the purchase of a wireless telephone as well as additional calling or usage privileges purchased by any means, including, without limitation, a calling card, a wireless communication, or an Internet transaction.

(13) 'Public agency' means the state and any city, county, city and county, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state which provides or has authority to provide fire-fighting, law enforcement, ambulance, medical, or other emergency services.

(14) 'Public safety agency' means a functional division of a public agency which provides fire-fighting, law enforcement, emergency medical, suicide prevention, emergency management dispatching, poison control, drug prevention, child abuse, spouse abuse, or other emergency services.

(15) 'Public safety answering point' means the public safety agency which receives incoming 9-1-1 telephone calls and dispatches appropriate public safety agencies to respond to such calls.

(16) 'Service supplier' means a person or entity who provides telephone service to a telephone subscriber.

(16.1) 'Telephone service' means any method by which a 9-1-1 emergency call is delivered to a public safety answering point. The term 'telephone service' shall include local exchange telephone service or other telephone communication service, wireless service, prepaid wireless service, mobile telecommunications service, computer service, Voice over Internet Protocol service, or any technology that delivers or is required by law to deliver a call to a public safety answering point.

(17) 'Telephone subscriber' means a person or entity to whom telephone service, either residential or commercial, is provided. When the same person, business, or organization has several telephone access lines, each exchange access facility shall constitute a separate subscription. When the same person, business, or organization has several wireless telephones, each wireless telecommunications connection shall constitute a separate connection.

(17.1) 'Voice over Internet Protocol service' means any technology that permits a voice conversation using a voice connection to a computer, whether through a microphone, a telephone, or other device, which sends a digital signal over the Internet through a broadband connection to be converted back to the human voice at a distant terminal and that delivers or is required by law to deliver a call to a public safety answering point. Voice over Internet Protocol service shall also include interconnected Voice over Internet Protocol service, which is service that enables real-time, two-way voice communications, requires a broadband connection from the user's location, requires Internet protocol compatible customer premises equipment, and allows users to receive calls that originate on the public service telephone network and to terminate calls to the public switched telephone network.

(17.2) 'Voice over Internet Protocol service supplier' means a person or entity who provides Voice over Internet Protocol service to subscribers for a fee.

(18) 'Wireless enhanced 9-1-1 charge' means a contribution to the local government for the following:

(A) The costs to the local government of implementing or upgrading, and maintaining, an emergency 9-1-1 system which is capable of receiving and utilizing the following information, as it relates to 9-1-1 calls made from a wireless telecommunications connection: automatic number identification, the location of the base station or cell site which receives the 9-1-1 call, and the location of the wireless telecommunications connection;

(B) Nonrecurring and recurring installation, maintenance, service, and network charges of a wireless service supplier to provide the information described in subparagraph (A) of this paragraph; and

(C) Other costs which may be paid with money from the Emergency Telephone System Fund, pursuant to subsection (e) of Code Section 46-5-134.

(19) 'Wireless service' means 'commercial mobile service' as defined under Section 332(D) of the federal Telecommunications Act of 1996 (47 U.S.C. Section 157, et seq.), regulations of the Federal Communications Commission, and the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) and includes real-time, two-way interconnected voice service which is provided over networks which utilize intelligent switching capability and offer seamless handoff to customers. The term does not include one-way signaling service, data transmission service, nonlocal radio access line service, or a private telecommunications service. The term does include prepaid wireless service.

(20) 'Wireless service supplier' means a provider of wireless service.

(21) 'Wireless telecommunications connection' means any mobile station for wireless service that connects a provider of wireless service to a provider of telephone service.

46-5-123.

(a) For the purposes of the development and implementation of a plan for the state-wide emergency 9-1-1 system, there is created the 9-1-1 Advisory Committee to be composed of the director of the agency, who shall serve as chairperson; the director of the Georgia Technology Authority or his or her designee; the commissioner of the department or his or her designee; and 12 other members appointed by the Governor, as follows:

(1) Three members appointed from nominees of the Georgia Municipal Association;

(2) Three members appointed from nominees of the Association County Commissioners of Georgia;

(3) Four members who are experienced in and currently involved in the management of emergency telephone systems; and

(4) Two members who are representatives of the telecommunications industry, one of whom shall be a representative of a wireless service supplier and one of whom shall be a representative of a land based service supplier.

(b) When appointments are made, the associations making nominations pursuant to this Code section shall submit at least three times as many nominees as positions to be filled at that time by nominees of the association.

(c) The appointed members of the committee shall serve at the pleasure of the Governor. Vacancies shall be filled in the same manner as the original appointment.

(d) The committee shall organize itself as it deems appropriate and may elect other officers from among its members.

(e) The committee shall hold meetings at the call of the chairperson; provided, however, that it shall meet at least three times a year. A quorum for transacting business shall be a majority of the members of the committee.

(f) The committee shall be assigned to the agency for administrative purposes only, as prescribed in Code Section 50-4-3.

(g) The committee shall have the following duties and responsibilities:

(1) To make recommendations to the commissioner of the department regarding the recipients of assistance grants provided for under 46-5-134.2;

(2) To study and evaluate the state-wide provision of 9-1-1 service;
(3) To identify any changes necessary to accomplish more effective and efficient 9-1-1 service across this state;
(4) To identify any changes necessary in the assessment and collection of 9-1-1 fees;
(5) To make recommendations to the agency as to training that should be provided to directors of public safety answering points; and
(6) To provide an annual report which shall include proposed legislation, if any, to the Governor and the General Assembly by December 1 of each year.

46-5-124.
(a) The agency shall develop guidelines for implementing a state-wide emergency 9-1-1 system. The guidelines shall provide for:
(1) Steps of action necessary for public agencies to effect the necessary coordination, regulation, and development preliminary to a 9-1-1 system that shall incorporate the requirements of each public service agency in each local government of Georgia;
(2) Identification of mutual aid agreements necessary to effect the 9-1-1 system, including coordination on behalf of the State of Georgia with any federal agency to secure financial assistance or other desirable activities in connection with the receipt of funding that may be provided to communities for the planning, development, or implementation of the 9-1-1 system;
(3) The coordination necessary between local governments planning or developing a 9-1-1 system and other state agencies, the Public Service Commission, all affected utility and telephone companies, wireless service suppliers, and other agencies;
(4) The actions to establish emergency telephone service necessary to meet the requirements for each local government, including law enforcement, fire-fighting, medical, suicide prevention, rescue, or other emergency services; and
(5) The actions to be taken by a local government desiring to provide wireless enhanced 9-1-1 service, including requirements contained in 47 Code of Federal Regulations Section 20.18.
(b) The agency shall be responsible for encouraging and promoting the planning, development, and implementation of local 9-1-1 system plans. The agency shall develop any necessary procedures to be followed by public agencies for implementing and coordinating such plans and shall mediate whenever disputes arise or agreements cannot be reached between the local political jurisdiction and other entities involving the 9-1-1 system.
(c) Notwithstanding any other law to the contrary, no communications officer hired to the staff of a public safety answering point shall be required to complete his or her training pursuant to Code Section 35-8-23 prior to being hired or employed for such position.
(d) The agency shall maintain the registry of wireless service suppliers provided for in Code Section 46-5-124.1.

46-5-124.1.

(a) Any service supplier doing business in Georgia shall register the following information with the director:

(1) The name, address, and telephone number of the representative of the service supplier to whom the resolution adopted pursuant to Code Section 46-5-133 or other notification of intent to provide automatic number identification or automatic location identification, or both, of a wireless telecommunications connection should be submitted;

(2) The name, address, and telephone number of the representative of the service supplier with whom a local government must coordinate to implement automatic number identification or automatic location identification, or both, of a wireless telecommunications connection;

(3) The counties in Georgia in which the service supplier is authorized to provide wireless service at the time the filing is made; and

(4) Every corporate name under which the service supplier is authorized to provide wireless service in Georgia.

(b) After the initial submission by each service supplier doing business in this state, the information required by subsection (a) of this Code section shall be updated and submitted to the director by the tenth day of January and the tenth day of July of each year or such other semiannual schedule as the director may establish.

(c) The director shall send a notice of delinquency to any service supplier which fails to comply with subsection (b) of this Code section. Such notice shall be sent by certified mail or statutory overnight delivery. Any service supplier which fails to register and provide the information required by this Code section within 30 days after receipt of a notice of delinquency shall not be eligible to receive cost recovery funds as provided in subsection (e) of Code Section 46-5-134 until the service supplier is in compliance with subsection (b) of this Code section.

46-5-125.

Nothing in this part shall be construed to prohibit or discourage the formation of multijurisdictional or regional 9-1-1 systems; and any system established pursuant to this part may include the jurisdiction, or any portion thereof, of more than one public agency.

46-5-126.

The agency shall coordinate its activities with those of the Public Service Commission, which shall encourage the Georgia telephone industry to activate facility modification plans for a timely 9-1-1 implementation.

46-5-127.

After January 1, 1978, no emergency 9-1-1 system shall be established, and no existing system shall be expanded to provide wireless enhanced 9-1-1 service, without written

confirmation by the agency that the local plan conforms to the guidelines and procedures provided for in Code Section 46-5-124.

46-5-128.
All public agencies shall assist the agency in its efforts to carry out the intent of this part; and such agencies shall comply with the guidelines developed pursuant to Code Section 46-5-124 by furnishing a resolution of intent regarding an emergency 9-1-1 system.

46-5-129.
The agency may develop a 9-1-1 emblem which may be utilized on marked vehicles used by public safety agencies participating in a local 9-1-1 system.

46-5-130.
The agency is authorized to apply for and accept federal funding assistance in the development and implementation of a state-wide emergency 9-1-1 system.

46-5-131.
(a) Whether participating in a state-wide emergency 9-1-1 system or an emergency 9-1-1 system serving one or more local governments, neither the state nor any local government of the state nor any emergency 9-1-1 system provider or service supplier or its employees, directors, officers, and agents, except in cases of wanton and willful misconduct or bad faith, shall be liable for death or injury to any person or for damage to property as a result of either developing, adopting, establishing, participating in, implementing, maintaining, or carrying out duties involved in operating the emergency 9-1-1 system or in the identification of the telephone number, address, or name associated with any person accessing an emergency 9-1-1 system.
(b) No local government of the State of Georgia shall be required to release, indemnify, defend, or hold harmless any emergency 9-1-1 system provider from any loss, claim, demand, suit, or other action or any liability whatsoever which arises out of subsection (a) of this Code section, unless the local government agrees or has agreed to assume such obligations.

46-5-132.
It shall be unlawful for any service supplier to assess or charge any fee for an emergency call placed on an emergency 9-1-1 system. The prohibition provided for in this Code section shall only apply to actual emergency calls made on such system and shall not apply to nor prohibit any fee assessed or charged for the implementation or enhancement of such system.

46-5-133.

(a) Subject to the provisions of subsection (b) of this Code section, the governing authority of any local government which operates or which contracts for the operation of an emergency 9-1-1 system is authorized to adopt a resolution to impose a monthly 9-1-1 charge upon each telephone service subscribed to by telephone subscribers whose exchange access lines are in the areas served or which would be served by the 9-1-1 service. Subject to the provisions of subsection (b) of this Code section and of subparagraphs (a)(2)(A) and (a)(2)(B) of Code Section 46-5-134, the governing authority of any local government which operates or contracts for the operation of an emergency 9-1-1 system which is capable of providing or provides enhanced 9-1-1 service to persons or entities with a wireless telecommunications connection, excluding a military base, is authorized to adopt a resolution to impose a monthly wireless enhanced 9-1-1 charge upon each wireless telecommunications connection, other than a connection for prepaid wireless service, subscribed to by telephone subscribers whose place of primary use is within the geographic area that is served by the local government or that would be served by the local government for the purpose of such an emergency 9-1-1 system. Such resolution, or any amendment to such resolution, shall fix a date on which such resolution and the imposition and collection of the 9-1-1 charge or wireless enhanced 9-1-1 charge, as provided in the resolution, shall become effective; provided, however, that such effective date shall be at least 120 days following the date of the adoption of such resolution or any amendment to such resolution by the local government. The 9-1-1 charge must be uniform, may not vary according to the type of telephone service used, and may be billed on a monthly or quarterly basis. The wireless enhanced 9-1-1 charge must be uniform, not vary according to the type of wireless telecommunications connection used, and may be billed on a monthly or quarterly basis.

(a.1) Any 9-1-1 charges shall be imposed only on the telephone subscriber of the entity that provides telephone service directly to the telephone subscriber. If a service supplier obtains its connectivity to the public switched telephone network or the public safety answering point through another service supplier, that other service supplier shall not be subject to any 9-1-1 charges with respect to the affected services.

(b)(1) Except as provided in paragraph (2) of this subsection, no local government shall be authorized to exercise the power conferred by this Code section unless either:

(A) A majority of the voters residing in that political subdivision who vote in an election called for such purpose shall vote to authorize the implementation of this Code section. Such election shall be called and conducted as other special elections are called and conducted in such local government when requested by such local government authority. The question or questions on the ballot shall be as prescribed by the election superintendent, provided that separate questions may be posed regarding implementation of a 9-1-1 charge and of a wireless enhanced 9-1-1 charge; or

(B) After a public hearing held upon not less than ten days' public notice.

(2) The provisions of paragraph (1) of this subsection shall not apply with respect to a local government if the governing authority of such local government has on or before March 7, 1988, contracted with a telephone service supplier for the purchase or operation, or both, of a telephone 9-1-1 system.

(c) On and after January 1, 1999, no monthly 9-1-1 charge provided for in this Code section shall be imposed or continue to be imposed unless each public safety answering point funded in whole or in part from such charges is in compliance with Code Section 36-60-19, relating to required TDD training for communications officers.

46-5-134.

(a)(1)(A) The telephone subscriber of any telephone service may be billed for the monthly 9-1-1 charge, if any, imposed with respect to such telephone service by the service supplier. Such 9-1-1 charge may not exceed $1.50 per month per telephone service provided to the telephone subscriber. In the event that any telephone service supplier, due to its normal billing practices, is unable to charge differing amounts set by each local government as the 9-1-1 charge, such telephone service supplier shall collect on behalf of local governments that have authorized a 9-1-1 charge $1.50 per month per telephone service provided to the telephone subscribers to whom it provides telephone service in every area served by the emergency 9-1-1 system.

(B) All telephone services billed to federal, state, or local governments shall be exempt from the 9-1-1 charge. Each service supplier shall, on behalf of the local government, collect the 9-1-1 charge from those telephone subscribers to whom it provides telephone service in the area served by the emergency 9-1-1 system. As part of its normal billing process, the service supplier shall collect the 9-1-1 charge for each month a telephone service is in service, and it shall list the 9-1-1 charge as a separate entry on each bill. If a service supplier receives a partial payment for a bill from a telephone subscriber, the service supplier shall apply the payment against the amount the telephone subscriber owes the service supplier first.

(C) This paragraph shall not apply to wireless service or prepaid wireless service or the telephone subscribers or service suppliers of such services.

(2)(A) If the governing authority of a local government operates or contracts for the operation of an emergency 9-1-1 system which is capable of providing or provides automatic number identification of a wireless telecommunications connection and the location of the base station or cell site which receives a 9-1-1 call from a wireless telecommunications connection, the subscriber of a wireless telecommunications connection whose billing address is within the geographic area that is served by the local government or that would be served by the local government for the purpose of such an emergency 9-1-1 system may be billed for the monthly wireless enhanced 9-1-1 charge, if any, imposed with respect to that connection by the wireless service supplier. Such wireless enhanced 9-1-1 charge may not exceed the amount of the monthly 9-1-1 charge imposed upon other telephone subscribers pursuant to paragraph (1) of this

subsection nor exceed $1.00 per month per wireless telecommunications connection provided to the telephone subscriber.

(B) If the governing authority of a local government operates or contracts for the operation of an emergency 9-1-1 system which is capable of providing or provides automatic number identification and automatic location identification of a wireless telecommunications connection, the subscriber of a wireless telecommunications connection whose place of primary use is within the geographic area that is served by the local government or that would be served by the local government for the purpose of such an emergency 9-1-1 system may be billed for the monthly wireless enhanced 9-1-1 charge, if any, imposed with respect to that connection by the wireless service supplier. Such wireless enhanced 9-1-1 charge may not exceed the amount of the monthly 9-1-1 charge imposed upon other telephone subscribers pursuant to paragraph (1) of this subsection and shall be imposed on a monthly basis for each wireless telecommunications connection provided to the telephone subscriber.

(C) All wireless telecommunications connections billed to federal, state, or local governments shall be exempt from the wireless enhanced 9-1-1 charge. Each wireless service supplier shall, on behalf of the local government, collect the wireless enhanced 9-1-1 charge from those telephone subscribers whose place of primary use is within the geographic area that is served by the local government or that would be served by the local government for the purpose of such an emergency 9-1-1 system. As part of its normal billing process, the wireless service supplier shall collect the wireless enhanced 9-1-1 charge for each month a wireless telecommunications connection is in service, and it shall list the wireless enhanced 9-1-1 charge as a separate entry on each bill. If a wireless service supplier receives partial payment for a bill from a telephone subscriber, the wireless service supplier shall apply the payment against the amount the telephone subscriber owes the wireless service supplier first.

(D) Notwithstanding the foregoing, the application of any 9-1-1 service charge with respect to a mobile telecommunications service, as defined in 4 U.S.C. Section 124(7), shall be governed by the provisions of Code Section 48-8-6.

(E) This paragraph shall not apply to prepaid wireless service or the telephone subscribers or service suppliers of such service.

(b) Every telephone subscriber in the area served by the emergency 9-1-1 system shall be liable for the 9-1-1 charges and the wireless enhanced 9-1-1 charges imposed under this Code section until it has been paid to the service supplier. A service supplier shall have no obligation to take any legal action to enforce the collection of the 9-1-1 charge or wireless enhanced 9-1-1 charge. The service supplier shall provide the governing authority within 60 days with the name and address of each subscriber who has refused to pay the 9-1-1 charge or wireless enhanced 9-1-1 charge after such 9-1-1 charge or wireless enhanced 9-1-1 charge has become due. A collection action may be initiated the local government that imposed the charges, and reasonable costs and attorneys' fees associated with that

collection action may be awarded to the local government collecting the 9-1-1 charge or wireless enhanced 9-1-1 charge.

(c) The local government contracting for the operation of an emergency 9-1-1 system shall remain ultimately responsible to the service supplier for all emergency 9-1-1 system installation, service, equipment, operation, and maintenance charges owed to the service supplier. Any taxes due on emergency 9-1-1 system service provided by the service supplier will be billed to the local government subscribing to the service. State and local taxes do not apply to the 9-1-1 charge or wireless enhanced 9-1-1 charge billed to telephone subscribers under this Code section.

(d)(1) Each service supplier that collects 9-1-1 charges or wireless enhanced 9-1-1 charges on behalf of the local government is entitled to retain as an administrative fee an amount equal to 3 percent of the gross 9-1-1 or wireless enhanced 9-1-1 charge receipts to be remitted to the local government; provided, however, that such amount shall not exceed 3¢ for every dollar so remitted. The remaining amount shall be due quarterly to the local government and shall be remitted to it no later than 60 days after the close of a calendar quarter.

(2) The 9-1-1 charges and the wireless enhanced 9-1-1 charges collected by the service supplier shall be deposited and accounted for in a separate restricted revenue fund known as the Emergency Telephone System Fund maintained by the local government. The local government may invest the money in the fund in the same manner that other moneys of the local government may be invested and any income earned from such investment shall be deposited into the Emergency Telephone System Fund.

(3) On or before July 1, 2005, any funds that may have been deposited in a separate restricted wireless reserve account required by this Code section prior to such date shall be transferred to the Emergency Telephone System Fund required by paragraph (2) of this subsection.

(4) The local government may on an annual basis, and at its expense, audit or cause to be audited the books and records of service suppliers with respect to the collection and remittance of 9-1-1 charges.

(5) Such monthly 9-1-1 charges and wireless enhanced 9-1-1 charges may be reduced at any time by the governing authority by resolution; provided, however, that said governing authority shall be required to reduce such monthly 9-1-1 charge or wireless enhanced 9-1-1 charge at any time the projected revenues from 9-1-1 charges or wireless enhanced 9-1-1 charges will cause the unexpended revenues in the Emergency Telephone System Fund at the end of the fiscal year to exceed by one and one-half times the unexpended revenues in such fund at the end of the immediately preceding fiscal year or at any time the unexpended revenues in such fund at the end of the fiscal year exceed by one and one-half times the unexpended revenues in such fund at the end of the immediately preceding fiscal year. Such reduction in the 9-1-1 charge or wireless enhanced 9-1-1 charge shall be in an amount which will avert the accumulation of revenues in such fund at the end of the fiscal year which will exceed by one and one-half

times the amount of revenues in the fund at the end of the immediately preceding fiscal year.

(e) A wireless service supplier may recover its costs expended on the implementation and provision of wireless enhanced 9-1-1 services to subscribers in an amount not to exceed 30¢ of each 9-1-1 charge collected from a place of primary use that is within the geographic area that is served by the local government or would be served by the local government for the purpose of such emergency 9-1-1 system; provided, however, that such amount may be increased to 45¢ upon implementation of step two of the state plan governing 9-1-1 enhanced communications as provided in subsection (g) of this Code section. Such cost recovery amount shall be based on the actual cost incurred by the wireless service supplier in providing wireless enhanced 9-1-1 services.

(f) In addition to cost recovery as provided in subsection (e) of this Code section, money from the Emergency Telephone System Fund shall be used only to pay for:

(1) The lease, purchase, or maintenance of emergency telephone equipment, including necessary computer hardware, software, and data base provisioning; addressing; and nonrecurring costs of establishing a 9-1-1 system;

(2) The rates associated with the service supplier's 9-1-1 service and other service supplier's recurring charges;

(3) The actual cost of salaries, including benefits, of employees hired by the local government solely for the operation and maintenance of the emergency 9-1-1 system and the actual cost of training such of those employees who work as dispatchers or who work as directors as that term is defined in Code Section 46-5-138.2;

(4) Office supplies of the public safety answering points used directly in providing emergency 9-1-1 system services;

(5) The cost of leasing or purchasing a building used as a public safety answering point. Moneys from the fund cannot be used for the construction or lease of an emergency 9-1-1 system building until the local government has completed its street addressing plan;

(6) The lease, purchase, or maintenance of computer hardware and software used at a public safety answering point, including computer-assisted dispatch systems;

(7) Supplies directly related to providing emergency 9-1-1 system services, including the cost of printing emergency 9-1-1 system public education materials; and

(8) The lease, purchase, or maintenance of logging recorders used at a public safety answering point to record telephone and radio traffic.

(g) All 9-1-1 systems and communication systems provided pursuant to this part shall conform to the two-step state plan governing enhanced 9-1-1 service as follows:

(1) In step one, the governing authority of a local government shall operate or contract for the operation of an emergency 9-1-1 system that provides or is capable of providing automatic number identification of a wireless telecommunications connection and the location of the base station or cell site which received a 9-1-1 call from a wireless telecommunications connection; and

(2) In step two, the governing authority of a local government shall operate or contract for the operation of an emergency 9-1-1 system that provides or is capable of providing automatic number identification and automatic location of a wireless telecommunications connection.

(h) The local government may contract with a service supplier for any term negotiated by the service supplier and the local government for an emergency 9-1-1 system and may make payments from the Emergency Telephone System Fund to provide any payments required by the contract, subject to the limitations provided by subsection (e) of this Code section.

(i) The service supplier shall maintain records of the amount of the 9-1-1 charges and wireless enhanced 9-1-1 charges collected for a period of at least three years from the date of collection. The local government may, at its expense, require an annual audit of the service supplier's books and records with respect to the collection and remittance of the 9-1-1 charges and wireless enhanced 9-1-1 charges.

(j) In order to provide additional funding for the local government for emergency 9-1-1 system purposes, the local government may receive federal, state, municipal, or private funds which shall be expended for the purposes of this part.

(k) Subject to the provisions of Code Section 46-5-133, a telephone subscriber may be billed for the monthly 9-1-1 charge or wireless enhanced 9-1-1 charge for up to 18 months in advance of the date on which the 9-1-1 system becomes fully operational.

(l) In the event the local government is a federal military base providing emergency services to telephone subscribers residing on the base, a telephone service supplier is authorized to apply the 9-1-1 charges collected to the bill for 9-1-1 service rather than remit the funds to an Emergency Telephone System Fund.

(m)(1) Any local government collecting or expending any 9-1-1 charges or wireless enhanced 9-1-1 charges in any fiscal year beginning on or after July 1, 2005, shall file an annual report of its collections and expenditures in conjunction with the annual audit required under Code Section 36-81-7. The form shall be designed by the state auditor and shall be distributed to local governments administering such funds. The annual report shall require certification by the recipient local government and by the local government auditor that funds were expended in compliance with the expenditure requirements of this Code section.

(2) Any local government which makes expenditures not in compliance with this Code section may be held liable for pro rata reimbursement to telephone and wireless telecommunications subscribers of amounts improperly expended. Such liability may be established in judicial proceedings by any aggrieved party. The noncompliant local government shall be solely financially responsible for the reimbursement and for any costs associated with the reimbursement. Such reimbursement shall be accomplished by the service suppliers abating the imposition of the 9-1-1 charges and wireless enhanced 9-1-1 charges until such abatement equals the total amount of the rebate.

46-5-134.1.

(a) This Code section shall apply in counties where the governing authorities of more than one local government have adopted a resolution to impose a 9-1-1 charge in accordance with the provisions of subsection (a) of Code Section 46-5-133 and notwithstanding any contrary provision of Code Section 46-5-133 or 46-5-134.

(b) A wireless service supplier may certify to any of the governing authorities described in subsection (a) of this Code section that the wireless service supplier is unable to determine whether the billing addresses of its subscribers are within the geographic area that is served by such local government. Upon such certification, the wireless service supplier shall be authorized to collect the 9-1-1 charge for wireless enhanced 9-1-1 services from any of its subscribers whose billing address is within the county and is within an area that is as close as reasonably possible to the geographic area that is served by such local government. The wireless service supplier shall notify such subscribers that if such subscriber's billing address is not within the geographic area served by such local government, such subscriber is not obligated to pay the 9-1-1 charge for wireless enhanced 9-1-1 service.

(c) Unless otherwise provided in an agreement among the governing authorities described in subsection (a) of this Code section, the charges collected by a wireless service supplier pursuant to this Code section shall be remitted to such governing authorities based upon the number of calls from wireless telecommunications connections that each such individual local government receives and counts relative to the total number of calls from wireless telecommunications connections that are received and counted by all of such local governments.

(d) The authority granted to a wireless service supplier pursuant to this Code section shall terminate:

(1) On the date that the wireless service supplier certifies to a governing authority described in subsection (a) of this Code section that the wireless service supplier is able to determine whether the billing addresses of its subscribers are within the geographic area that is served by such governing authority; or

(2) On the date which is 180 days from the date that any of its subscribers were first billed under this Code section, whichever is earlier.

Upon termination of such authority, the wireless service supplier shall collect the 9-1-1 charge for wireless enhanced 9-1-1 charge service as provided in Code Section 46-5-134.

46-5-134.2.

(a) A 9-1-1 charge shall be imposed on all prepaid wireless service subscribed to by telephone subscribers as provided in this Code section.

(b) A prepaid wireless service supplier shall:

(1) Charge and collect a fee in the amount of 3 percent of the wholesale price divided by .7 of each block of prepaid wireless service purchased by each telephone subscriber, whether such service is included with the initial purchase of a wireless telephone or other

device or is recorded on a wireless telephone or other device by the purchase of a calling card, through an Internet transaction, by means of a wireless communication directly to the telephone subscriber's wireless telephone or other device, or by any other means;

(2) Charge and collect a fee in the amount of 3 percent of the suggested retail price of each block of prepaid wireless service purchased by each telephone subscriber, whether such service is included with the initial purchase of a wireless telephone or other device or is recorded on a wireless telephone or other device by the purchase of a calling card, through an Internet transaction, by means of a wireless communication directly to the telephone subscriber's wireless telephone or other device, or by any other means;

(3) Divide the total prepaid wireless service revenue earned and received in this state by such prepaid wireless service supplier in a calendar month by $50.00 and multiply the quotient by $1.50 to determine the amount of the fee to be paid to the department;

(4) Charge and collect a fee in the amount of $1.50 from the account of each prepaid wireless service telephone subscriber who has a sufficient positive balance as of the last day of the month; or

(5) Use any other method to charge and collect the fee; provided, however, that in no event shall the prepaid wireless service supplier charge and collect less than $1.50 per the average monthly amount of prepaid wireless service actually provided to a telephone subscriber.

(c) A prepaid wireless service supplier shall indicate the method it elects to use pursuant to subsection (b) of this Code section on reports filed with the department and on receipts issued to the wholesale purchaser.

(d) All fees provided for in this Code section shall be paid to the department. A prepaid wireless service supplier may pay all such fees it collects throughout this state in a single remittance. Such fees shall be remitted monthly to the department not later than the twentieth day of the month following the month in which they are collected. Any fee not paid in a timely manner shall accrue interest at the rate of 15 percent per annum, compounded daily, until the date they are paid. The department shall deposit all funds received into the general fund of the state treasury in compliance with Article 4 of Chapter 12 of Title 45, the 'Budget Act.'

(e) The 9-1-1 Advisory Committee may, upon a majority vote of its members, audit or cause to be audited by the state auditor, or some other auditor agreed upon by a majority of the committee's members, the financial and business records of any service supplier to the extent necessary to ensure proper collection and remittances in accordance with this Code section. Failure of the service supplier to comply with an audit request shall result in a civil penalty of not more than $1,000.00 per day the service supplier refuses compliance.

(f)(1) There is created the Emergency 9-1-1 Assistance Fund to be administered by the department. It is the intention of the General Assembly, subject to the appropriation process, that an amount equal to the amount deposited into the general fund of the state treasury as provided in subsection (d) of this Code section be appropriated each year to

the fund; provided, however, that any such funds unused at the end of each fiscal year shall lapse back into the state treasury as required by Article III, Section IX, Paragraph IV of the Constitution.

(2)(A) Any governmental entity which operates, is in the process of implementing, or is developing a plan for the implementation of a local, regional, or state-wide emergency system may apply to the department for and receive an assistance grant from the Emergency 9-1-1 Assistance Fund for the purchase or upgrade of equipment.

(B) The center may apply to the department for and receive a grant from the Emergency 9-1-1 Assistance Fund to provide professional training to directors, as the term is defined in Code Section 46-5-138.2.

(C) The agency may apply to the department for and receive a grant from the Emergency 9-1-1 Assistance Fund for the reasonable administrative costs of supporting the 9-1-1 Advisory Council as provided for in Code Section 46-5-123.

(3) Decisions on the issuance of assistance grants shall be made by the 9-1-1 Advisory Committee established by Code Section 46-5-123.

(g) The department shall promulgate written rules and regulations to provide for the application process and for the administration of the Emergency 9-1-1 Assistance Fund, and to otherwise implement the provisions of this Code section.

(h) The department shall be authorized to use a portion of the funds collected pursuant to this Code section to provide for the direct and indirect costs associated with the administration of this Code section.

46-5-135.

A service supplier, including any company providing telephone services and its employees, directors, officers, and agents, is not liable for any damages in a civil action for injuries, death, or loss to persons or property incurred by any person as a result of any act or omission of a service supplier or any of its employees, directors, officers, or agents, except for willful or wanton misconduct, either in connection with developing, adopting, implementing, maintaining, or operating any emergency 9-1-1 system or in the identification of the telephone number, address, or name associated with any person accessing an emergency 9-1-1 system.

46-5-136.

(a) The governing authority of a local government by resolution shall create an advisory board consisting of the sheriff, representatives from other public safety agencies which respond to emergency calls under the 9-1-1 system, and other individuals knowledgeable of emergency 9-1-1 systems and the emergency needs of the citizens of the local government, provided that such advisory board shall not exceed 13 members.

(b) The advisory board shall assist the local government in:

(1) Reviewing and analyzing the progress by public safety agencies in developing 9-1-1 system requirements;

(2) Recommending steps of action to effect the necessary coordination, regulation, and development of a 9-1-1 system;

(3) Identifying mutual aid agreements necessary to effect the 9-1-1 system;

(4) Assisting in the promulgation of necessary rules, regulations, operating procedures, schedules, and other such policy and administrative devices as shall be deemed necessary and appropriate; and

(5) Providing other services as may be deemed appropriate by the local government.

(c) The members of the advisory board shall not be compensated from moneys deposited into the Emergency Telephone System Fund.

46-5-137.

This part shall not be construed as affecting the jurisdiction or powers of the Public Service Commission to establish rates, charges, or tariffs.

46-5-138.

(a)(1) By proper resolution of the local governing bodies, an authority may be created and activated by:

(A) Any two or more municipal corporations;

(B) Any two or more counties; or

(C) One or more municipal corporations and one or more counties.

(2) The resolutions creating and activating a joint authority shall specify the number of members of the authority, the number to be appointed by each participating county or municipal corporation, their terms of office, and their residency requirements.

(3) The resolutions creating and activating joint authorities may be amended by appropriate concurrent resolutions of the participating governing bodies.

(b) The public authority shall be authorized to contract with the counties or municipalities which formed the authority to operate an emergency 9-1-1 system for such local governments throughout the corporate boundaries of such local governments. Pursuant to such contracts, the local governments shall be authorized to provide funding to the authority from the Emergency Telephone System Fund maintained by each local government. No authority shall be formed until each local government forming the authority has imposed a monthly 9-1-1 charge or a monthly wireless enhanced 9-1-1 charge.

(c) Each authority shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including, but without limiting the generality of the foregoing, the power:

(1) To bring and defend actions;

(2) To adopt and amend a corporate seal;

(3) To make and execute contracts and other instruments necessary to exercise the powers of the authority;

(4) To receive and administer gifts, grants, and devises of any property;

(5) To operate emergency call answering services for law enforcement, emergency management, fire, and emergency medical service agencies 24 hours a day, seven days a week, 365 days a year;

(6) To acquire, by purchase, gift, or construction, any real or personal property desired to be acquired to operate the emergency 9-1-1 system;

(7) To sell, lease, exchange, transfer, assign, pledge, mortgage, dispose of, or grant options for any real or personal property or interest therein for any such purposes; and

(8) To mortgage, convey, pledge, or assign any properties, revenues, income, tolls, charges, or fees owned or received by the authority.

(d) The authority shall elect a chairperson and such other officers as deemed necessary by the authority. The authority shall select a director who shall be responsible for establishing operating standards and procedures and overseeing the operations of the emergency 9-1-1 system. The director may be an employee working in the operation of the emergency 9-1-1 system. The authority shall be responsible for hiring, training, supervising, and disciplining employees working in the operation of the emergency 9-1-1 system. An appropriate number of full-time and part-time employees shall be hired to operate the emergency 9-1-1 system. The authority shall determine the compensation of such employees and shall be authorized to provide other employee benefits. The authority shall submit its annual budget and a report of its financial records to the local governments which created the authority.

(e) The authority may contract with a service supplier in the same manner that local governments are so authorized under the provisions of this part.

(f) Notwithstanding subsection (i) of Code Section 46-5-134, if the joint authority and each local governing body activating the joint authority certify to the service provider in writing prior to the end of the 18 month period in advance of the date on which the 9-1-1 system was to have become fully operational that the system cannot be placed in operation on the date originally projected but that all parties are proceeding in a diligent and timely fashion to implement such service, the service provider shall continue to collect the monthly 9-1-1 charge for an additional period of 18 months or until the 9-1-1 system becomes fully operational, whichever occurs first.

(g) It is found, determined, and declared that the creation of the authority and the carrying out of its corporate purposes are in all respects for the benefit of the people of this state and constitute a public purpose, and the authority shall be performing an essential governmental function in the exercise of the power conferred upon it by this Code section. This state covenants that the authority shall be required to pay no taxes or assessments upon any of the property acquired or leased by it or under its jurisdiction, control, possession, or supervision, or upon its activities in the operation or maintenance of the buildings erected or acquired by it, or upon any fees, rentals, or other charges for the use of such buildings, or upon other income received by the authority. The exemption provided in this Code section shall include an exemption from state and local sales and use tax on property purchased by the authority for use exclusively by the authority.

46-5-138.1.

(a) Notwithstanding any provision of paragraph (1) of subsection (a) of Code Section 46-5-134 to the contrary, where two or more counties, none of which offers emergency 9-1-1 system services on May 1, 1998, and any participating municipalities within such counties, if any, agree by intergovernmental contract to initiate or contract for the joint operation of an emergency 9-1-1 system for the first time after May 1, 1998, such local governments may impose a monthly 9-1-1 charge which exceeds $1.50 per telephone service but only so long as the following procedure shall be followed:

(1) The participating local governments shall, with input from a telephone service supplier, prepare an estimated budget for the implementation of the joint emergency 9-1-1 system with costs limited to items eligible for funding through the Emergency Telephone System Fund;

(2) An estimate of the revenue to be generated by the 9-1-1 charge authorized by paragraph (1) of subsection (a) of Code Section 46-5-134 during the first 18 months of collection shall be prepared;

(3) If the total amount necessary for implementation of the emergency 9-1-1 system in paragraph (1) of this subsection exceeds the estimated revenue from imposition of the 9-1-1 charge specified in paragraph (2) of this subsection, the monthly 9-1-1 charge per telephone service may be increased on a pro rata basis during the first 18 months of collection to the extent necessary to provide revenue sufficient to pay the amount specified in paragraph (1) of this subsection, but in no case shall such monthly charge be greater than $2.50 per telephone service. Notwithstanding subsection (i) of Code Section 46-5-134, if each local governing body which is a party to an intergovernmental contract certifies to the service provider in writing prior to the end of the 18 month period in advance of the date on which the 9-1-1 system was to have become fully operational that the system cannot be placed in operation on the date originally projected but that all parties are proceeding in a diligent and timely fashion to implement such service, the service provider shall continue to collect the monthly 9-1-1 charge for an additional period of 18 months or until the 9-1-1 system becomes fully operational, whichever occurs first; and

(4) Such local governments shall comply with the requirements of Code Section 46-5-133 which relate to the imposition of a monthly 9-1-1 charge.

Nothing in this subsection shall be construed to authorize the imposition of any charge upon a wireless service. Except as otherwise provided in this subsection, the requirements of Code Section 46-5-134 which relate to monthly 9-1-1 charges on telephone services shall apply to charges imposed pursuant to this subsection.

(b) The increased monthly 9-1-1 charge authorized by subsection (a) of this Code section shall also be available to any joint 9-1-1 authority created pursuant to Code Section 46-5-138 after May 1, 1998.

46-5-138.2.

(a) As used in this Code Section, the term 'director' means any person having direct operational control of a public safety answering point, any person who has as part of his or her duties supervisory responsibility for one or more communication officers or other employees who answer 9-1-1 calls received by a public safety answering point, or any person who has system management responsibility for the public safety answering point.

(b) In addition to any training required under federal or state law, any persons serving as a director may enroll in, attend, and complete satisfactorily a course of training and instruction on the management of public safety answering points and the establishment and operation of 9-1-1 systems. Such course of instruction for directors shall be developed and made available by the center subject to the availability and receipt of funding."

SECTION 3.

Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to telephone and telegraph service, so as to refine definitions for purposes of conformity, is amended by revising paragraph (2) of Code Section 46-5-221, relating to definitions, as follows:

"(2) 'VoIP' means Voice over Internet Protocol services offering real time multidirectional voice functionality utilizing any Internet protocol."

SECTION 4.

Said chapter is further amended by revising paragraph (4) of Code Section 46-5-231, relating to definitions, as follows:

"(4) 'Voice service provider' means any person, firm, partnership, corporation, association, or municipal, county, or local governmental entity that provides telephone services to a customer, irrespective of the communications technology used to provide such service, including, but not limited to, traditional wireline or cable telephone service; cellular, broadband personal communications service, or other wireless telephone service; microwave, satellite, or other terrestrial telephone service; and Voice over Internet Protocol service."

SECTION 5.

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

Approved May 23, 2007.

REVENUE – CHARITABLE INSTITUTION EXEMPTION.

No. 212 (House Bill No. 445).

AN ACT

To amend Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to tax exemptions, so as to clarify an ad valorem tax exemption for certain charitable institutions; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to tax exemptions, is amended in Code Section 48-5-41, relating to property exempt from ad valorem taxation, by revising paragraph (2) of subsection (d) as follows:

"(2) With respect to paragraph (4) of subsection (a) of this Code section, a building which is owned by a charitable institution that is otherwise qualified as a purely public charity and that is exempt from taxation under Section 501(c)(3) of the federal Internal Revenue Code and which building is used by such charitable institution exclusively for the charitable purposes of such charitable institution, and not more than15 acres of land on which such building is located, may be used for the purpose of securing income so long as such income is used exclusively for the operation of that charitable institution."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 23, 2007.

DOMESTIC RELATIONS – PRE-BIRTH SURRENDER OF RIGHTS.

No. 214 (House Bill No. 497).

AN ACT

To amend Chapter 8 of Title 19 of the Official Code of Georgia Annotated, relating to adoption, so as to provide for pre-birth surrender of rights for a biological father to a child being placed for adoption; to provide for the dissolution of surrender rights signed by the birth mother if the biological father legitimates the child and the adoption is not granted; to clarify the authority of a birth mother to sign either a voluntary acknowledgment of legitimation or of paternity following her execution of a surrender of parental rights in support of an adoption of the same child; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 8 of Title 19 of the Official Code of Georgia Annotated, relating to adoption, is amended in Code Section 19-8-4, relating to the surrender of rights to the department or a child-placing agency, by revising subsection (c) as follows:

"(c) The surrender to the department or to a child-placing agency specified in paragraphs (1) and (2) of subsection (e) of this Code section shall be executed following the birth of the child, and the pre-birth surrender to the department or to a child-placing agency specified in paragraph (3) of subsection (e) of this Code section shall be executed prior to the birth of the child. Each surrender shall be executed in the presence of a representative of the department or the agency and a notary. A copy shall be delivered to the individual signing the surrender at the time of the execution thereof."

SECTION 2.

Said chapter is further amended in said Code section by adding a new paragraph to subsection (e) as follows:

"(3)(A) The biological father who is not the legal father of a child may execute a surrender of his rights to the child prior to the birth of the child for the purpose of an adoption pursuant to this Code section. A pre-birth surrender, when signed under oath by the alleged biological father, shall serve to relinquish the alleged biological father's rights to the child and to waive the alleged biological father's right to notice of any proceeding with respect to the child's adoption, custody, or guardianship. The court in any adoption proceeding shall have jurisdiction to enter a final order of adoption of the child based upon the pre-birth surrender and in other proceedings to determine the

child's legal custody or guardianship shall have jurisdiction to enter an order for those purposes.

(B) The responsibilities of an alleged biological father are permanently terminated only upon the entry of a final order of adoption. A person executing a pre-birth surrender pursuant to this Code section shall have the right to withdraw the surrender within ten days from the date of execution thereof, notwithstanding the date of birth of the child.

(C) If a final order of adoption is not entered after the execution of a pre-birth surrender and paternity is established by acknowledgment, by administrative order, or by judicial order, then the alleged biological father shall be responsible for child support or other financial obligations to the child or to the child's mother, or to both.

(D) The pre-birth surrender shall not be valid for use by a legal father as defined under paragraph (6) of Code Section 19-8-1 or for any man who has executed either a voluntary acknowledgment of legitimation pursuant to the provisions of paragraph (2) of subsection (g) of Code Section 19-7-22 or a voluntary acknowledgment of paternity pursuant to the provisions of Code Section 19-7-46.1.

(E) The pre-birth surrender may be executed at any time after the biological mother executes a sworn statement identifying such person as an alleged biological father of the biological mother's unborn child.

(F) The pre-birth surrender shall meet the requirements of subsection (f) of Code Section 19-8-26."

SECTION 3.

Said chapter is further amended in Code Section 19-8-5, relating to the surrender rights when the child is to be adopted by a third party, by revising subsection (c) as follows:

"(c) The surrender specified in paragraphs (1) and (2) of subsection (e) of this Code section shall be executed following the birth of the child, and the pre-birth surrender specified in paragraph (3) of subsection (e) of this Code section shall be executed prior to the birth of the child. Each surrender shall be executed in the presence of a notary. The name and address of each person to whom the child is surrendered may be omitted to protect confidentiality, provided the surrender sets forth the name and address of his agent for purposes of notice of withdrawal as provided for in subsection (d) of this Code section. A copy shall be delivered to the individual signing the surrender at the time of the execution thereof."

SECTION 4.

Said chapter is further amended in said Code section by adding a new paragraph to subsection (e) as follows:

"(3)(A) The biological father who is not the legal father of a child may execute a surrender of his rights to the child prior to the birth of the child for the purpose of an adoption pursuant to this Code section. A pre-birth surrender, when signed under oath by the alleged biological father, shall serve to relinquish the alleged biological father's

rights to the child and to waive the alleged biological father's right to notice of any proceeding with respect to the child's adoption, custody, or guardianship. The court in any adoption proceeding shall have jurisdiction to enter a final order of adoption of the child based upon the pre-birth surrender and in other proceedings to determine the child's legal custody or guardianship shall have jurisdiction to enter an order for those purposes.

(B) The responsibilities of an alleged biological father are permanently terminated only upon the entry of a final order of adoption. A person executing a pre-birth surrender pursuant to this Code section shall have the right to withdraw the surrender within ten days from the date of execution thereof, notwithstanding the date of birth of the child.

(C) If a final order of adoption is not entered after the execution of a pre-birth surrender and paternity is established by acknowledgment, by administrative order, or by judicial order, then the alleged biological father shall be responsible for child support or other financial obligations to the child or to the child's mother, or to both.

(D) The pre-birth surrender shall not be valid for use by a legal father as defined under paragraph (6) of Code Section 19-8-1 or for any man who has executed either a voluntary acknowledgment of legitimation pursuant to the provisions of paragraph (2) of subsection (g) of Code Section 19-7-22 or a voluntary acknowledgment of paternity pursuant to the provisions of Code Section 19-7-46.1.

(E) The pre-birth surrender may be executed at any time after the biological mother executes a sworn statement identifying such person as an alleged biological father of the biological mother's unborn child.

(F) The pre-birth surrender shall meet the requirements of subsection (f) of Code Section 19-8-26."

SECTION 5.

Said chapter is further amended in Code Section 19-8-7, relating to the surrender of rights when the child is adopted by a relative, by revising subsection (c) as follows:

"(c) The surrender specified in paragraphs (1) and (2) of subsection (e) of this Code section shall be executed following the birth of the child, and the pre-birth surrender specified in paragraph (3) of subsection (e) of this Code section shall be executed prior to the birth of the child. Each surrender shall be executed in the presence of a notary. A copy shall be delivered to the individual signing the surrender at the time of the execution thereof."

SECTION 6.

Said chapter is further amended in said Code section by adding a new paragraph to subsection (e) as follows:

"(3)(A) The biological father who is not the legal father of a child may execute a surrender of his rights to the child prior to the birth of the child for the purpose of an adoption pursuant to this Code section. A pre-birth surrender, when signed under oath by the alleged biological father, shall serve to relinquish the alleged biological father's

rights to the child and to waive the alleged biological father's right to notice of any proceeding with respect to the child's adoption, custody, or guardianship. The court in any adoption proceeding shall have jurisdiction to enter a final order of adoption of the child based upon the pre-birth surrender and in other proceedings to determine the child's legal custody or guardianship shall have jurisdiction to enter an order for those purposes.

(B) The responsibilities of an alleged biological father are permanently terminated only upon the entry of a final order of adoption. A person executing a pre-birth surrender pursuant to this Code section shall have the right to withdraw the surrender within ten days from the date of execution thereof, notwithstanding the date of birth of the child.

(C) If a final order of adoption is not entered after the execution of a pre-birth surrender and paternity is established by acknowledgment, by administrative order, or by judicial order, then the alleged biological father shall be responsible for child support or other financial obligations to the child or to the child's mother, or to both.

(D) The pre-birth surrender shall not be valid for use by a legal father as defined under paragraph (6) of Code Section 19-8-1 or for any man who has executed either a voluntary acknowledgment of legitimation pursuant to the provisions of paragraph (2) of subsection (g) of Code Section 19-7-22 or a voluntary acknowledgment of paternity pursuant to the provisions of Code Section 19-7-46.1.

(E) The pre-birth surrender may be executed at any time after the biological mother executes a sworn statement identifying such person as an alleged biological father of the biological mother's unborn child.

(F) The pre-birth surrender shall meet the requirements of subsection (f) of Code Section 19-8-26."

SECTION 7.

Said chapter is further amended in Code Section 19-8-9, relating to surrender of parental rights where legal mother puts up child for adoption, by adding a new subsection as follows:

"(c) If a legal mother has voluntarily and in writing surrendered all of her parental rights pursuant to the provisions of subsection (a) of Code Section 19-8-4, 19-8-5, 19-8-6, or 19-8-7 and has not withdrawn her surrender within the ten-day period after signing as permitted by the provisions of subsection (b) of this Code section, she shall have no right or authority to sign either a voluntary acknowledgment of legitimation pursuant to the provisions of paragraph (2) of subsection (g) of Code Section 19-7-22 or a voluntary acknowledgment of paternity pursuant to the provisions of Code Section 19-7-46.1 regarding the same child."

SECTION 8.

Said chapter is further amended in Code Section 19-8-12, relating to notice to an alleged biological father, procedure when identity or location of an alleged biological father is

unknown, and when rights of the biological father are terminated, by adding a new subsection as follows:

"(h) If the child is legitimated by his or her biological father and in the subsequent adoption proceeding the petition for adoption is either withdrawn with prejudice or denied by the court, then a surrender of parental rights final release for adoption executed by the legal mother pursuant to the provisions of subsection (a) of Code Section 19-8-4, 19-8-5, or 19-8-7 shall be dissolved by operation of law and her parental rights shall be restored to her. The fact that the legal mother executed a surrender of parental rights final release for adoption, now dissolved, shall not be admissible evidence in any proceedings against the legal mother."

SECTION 9.

Said chapter is further amended in Code Section 19-8-26, relating to surrender of rights forms, by revising subsection (f) as follows:

"(f) The pre-birth surrender of rights by a biological father who is not the legal father of the child pursuant to paragraph (3) of subsection (e) of Code Section 19-8-4, 19-8-5, or 19-8-7 shall conform substantially to the following form:

'PRE-BIRTH SURRENDER OF RIGHTS
FINAL RELEASE FOR ADOPTION
NOTICE TO ALLEGED BIOLOGICAL FATHER

This is an important legal document and by signing it you are surrendering any and all of your right, title, and claim to the child identified herein, so as to facilitate the child's placement for adoption. You have the right to wait to execute a Surrender of Rights Final Release for Adoption after the child is born, but by signing this document you are electing to surrender your rights prior to the birth of this child. You are to receive a copy of this document and as explained below have the right to withdraw your pre-birth surrender within ten days from the date you sign it.

_____

I, the undersigned, understand that I have been named by _____, the mother of the child expected to be born in _____(city) _____(county) _____(state) on or about the _____day of _____(month), _____(year), as the biological father or possible biological father of her child. I further understand that the mother wishes to place this child for adoption.

To the best of my knowledge and belief, the child has not been born as of the date I am signing this pre-birth surrender; however, if in fact the child has been born, this surrender shall have the same effect as if it were a surrender executed following the birth of the child.

I understand that by signing this document I am not admitting that I am the biological father of this child, but if I am, I hereby agree that adoption is in this child's best interest.

I consent to adoption of this child by any person chosen by the child's mother or by any public or private child-placing agency without further notice to me. I expressly waive any other notice or service in any of the legal proceedings for the adoption of the child. I understand that I have the option to wait until after the child is born to execute a surrender of my rights (with a corresponding ten-day right of withdrawal) and, further, that by executing this document I am electing instead to surrender my rights before the child's birth.

I further understand that execution of this document does not fully and finally terminate my responsibilities until a final order of adoption is entered. I understand that if the child is not adopted, legal proceedings can be brought to establish paternity, and I may become liable for financial obligations related to the birth and support of this child.

Furthermore, I hereby certify that I have received a copy of this document and that I understand that I may only withdraw this pre-birth surrender by giving written notice, delivered in person or by statutory overnight delivery or registered mail, return receipt requested, to _____ within ten days from the date hereof; that the ten days shall be counted consecutively beginning with the day immediately following the date hereof; that, however, if the tenth day falls on a Saturday, Sunday, or legal holiday, then the last day on which the surrender may be withdrawn shall be the next day that is not a Saturday, Sunday, or legal holiday; and that it may NOT be withdrawn thereafter.

If prior to my signing this pre-birth surrender I have registered on Georgia's putative father registry then if I do not withdraw this surrender within the time permitted, I waive the notice I would be entitled to receive pursuant to the provisions of Code Section 19-8-12 of the Official Code of Georgia Annotated because of my registration on the putative father registry.

Furthermore, I hereby certify that I have not been subjected to any duress or undue pressure in the execution of this document and do so freely and voluntarily.

Witness my hand and seal this _____day of _____, _____.

_____

_____(SEAL)

Alleged biological father

_____

Unofficial Witness

Sworn to and subscribed before me on this _____ day of _____, _____.

_____

Notary Public

Seal
My commission expires: _____"

SECTION 10.

This Act shall become effective July 1, 2007, and shall apply to proceedings under this chapter on or after the effective date of this Act.

SECTION 11.

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

Approved May 23, 2007.

SOCIAL SERVICES – RECOVERY OF ASSISTANCE; OBLIGATIONS OF INSURERS, MANAGED CARE ENTITIES, AND PHARMACY BENEFIT MANAGERS; ADULT DAYCARE CENTER FEES.

No. 216 (House Bill No. 505).

AN ACT

To amend Title 49 of the Official Code of Georgia Annotated, relating to social services, so as to change certain provisions relating to recovery of assistance from third parties liable for sickness, injury, disease, or disability; to expand certain obligations of insurers, managed health care entities, and pharmacy benefit managers; to authorize the Department of Human Resources to charge fees relating to the licensure of adult day centers; to provide for related matters; to provide for effective dates; to provide for a contingency; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended by revising subsection (b) of Code Section 49-4-148, relating to recovery of assistance from third parties liable for sickness, injury, disease, or disability, as follows:

"(b) All insurers, as defined in Code Section 33-24-57.1, including but not limited to group health plans as defined in Section 607(1) of the federal Employee Retirement Security Act of 1974, managed care entities as defined in Code Section 33-20A-3, which offer health

benefit plans, as defined in Code Section 33-24-59.5, pharmacy benefit managers, as defined in Code Section 26-4-110.1, and any other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service shall comply with this subsection. Such entities set forth in this subsection shall:

(1) Cooperate with the department in determining whether a person who is a recipient of medical assistance may be covered under that entity's health benefit plan and eligible to receive benefits thereunder for the medical services for which that medical assistance was provided and respond to any inquiry from the state regarding a claim for payment for any health care item or service submitted not later than three years after such item or service was provided;

(2) Accept the department's authorization for the provision of medical services on behalf of a recipient of medical assistance as the entity's authorization for the provision of those services;

(3) Comply with the requirements of Code Section 33-24-59.5, regarding the timely payment of claims submitted by the department for medical services provided to a recipient of medical assistance and covered by the health benefit plan, subject to the payment to the department of interest as provided in that Code section for failure to comply;

(4) Provide the department, on a quarterly basis, eligibility and claims payment data regarding applicants for medical assistance or recipients for medical assistance;

(5) Accept the assignment to the department or a recipient of medical assistance or any other entity of any rights to any payments for such medical care from a third party; and

(6) Agree not to deny a claim submitted by the department solely on the basis of the date of submission of the claim, type or format of the claim, or a failure to present proper documentation at the point-of-sale which is the basis of the claim, if:

(A) The claim is submitted to the department within three years from when the item or service was furnished; and

(B) Any action by the department to enforce its rights with respect to such claim commenced within six years of the department's submission of the claim.

The requirements of paragraphs (2) and (3) of this subsection shall only apply to a health benefit plan which is issued, issued for delivery, delivered, or renewed on or after April 28, 2001."

SECTION 2.

Said title is further amended by adding a new Code section to read as follows:

"49-6-86.

The department shall be authorized to charge reasonable application fees, license fees, renewal fees, or other similar fees relating to the licensure of adult day centers in an amount established by the board pursuant to rules and regulations. The board shall take into consideration input from consumers, providers of adult day health services, and advocates during the rulemaking process to establish such fees. If so appropriated by the

General Assembly, the fees shall be used to support the licensing, inspecting, and monitoring of adult day centers. Fees may be refunded by the department for good cause, as determined by the department."

SECTION 3.

Section 2 of this Act shall become effective only if funds are specifically appropriated for the purposes of this Act in an appropriations act making specific reference to this Act and shall become effective when funds so appropriated become available for expenditure. For all other purposes, this Act shall become effective on July 1, 2007.

SECTION 4.

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

Approved May 23, 2007.

PROFESSIONS – ARCHITECTS AND INTERIOR DESIGNERS; RULES; APPLICANT QUALIFICATIONS; CEASE AND DESIST ORDERS.

No. 217 (Senate Bill No. 237).

AN ACT

To amend Article 1 of Chapter 4 of Title 43 of the Official Code of Georgia Annotated, relating to general provisions relative to architects, so as to change certain provisions relating to the adoption of rules, regulations, and standards of conduct by the Georgia State Board of Architects and Interior Designers; to change certain provisions relating to the qualifications of applicants for examination or a certificate of registration; to change certain provisions relating to cease and desist orders issued by the board and civil penalties and judicial review for such orders; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 4 of Title 43 of the Official Code of Georgia Annotated, relating to general provisions relative to architects, is amended by revising Code Section 43-4-9, relating to the adoption of rules, regulations, and standards of conduct, as follows:

"43-4-9.

(a) The board shall adopt all necessary rules, regulations, and standards of conduct, not inconsistent with this chapter and the Constitution and laws of this state and of the United States, to carry out this chapter and to safeguard life, health, and property.

(b) The board shall post all current laws, rules, regulations, and standards of conduct relating to the practice of architecture in this state on the board's official website. The board shall also provide on the website notification of recent changes in such laws, rules, regulations, or standards and information pertaining to disciplinary actions taken by the board. Individual notice of changes in such laws, rules, regulations, or standards shall be sent by the board at least once a year to each registered architect and building official. Individual notice may be sent by e-mail or regular mail."

SECTION 2.

Said article is further amended by revising subsection (c) of Code Section 43-4-11, relating to the qualifications of applicants for examination or a certificate of registration, as follows:

"(c) The applicant for a certificate of registration who has been registered as an architect by another jurisdiction shall hold a National Council of Architectural Registration Boards' certificate and a certificate of registration in such other jurisdiction, both of which shall be current and in good standing in order to meet the requirements of this subsection."

SECTION 3.

Said article is further amended by revising Code Section 43-4-18, relating to cease and desist orders, civil penalties, and judicial review, as follows:

"43-4-18.

(a) Notwithstanding any other provisions of the law to the contrary, upon the board determining that a person is violating the provisions of Code Section 43-4-14, 43-4-16, or 43-4-17, the board may issue a cease and desist order prohibiting the person from committing further violations and may impose a fine not to exceed $10,000.00 for each violation. In determining the fine amount to be imposed, the board shall consider the severity of the violation.

(b) For purposes of this Code section, each day a person is in violation of the provisions of Code Section 43-4-14, 43-4-16, or 43-4-17 shall constitute a separate violation.

(c) A determination by the board pursuant to subsection (a) of this Code section shall be made only after notice to such person is given and a hearing is held.

(d) Initial judicial review of any decision of the board made pursuant to this Code section or any action for enforcement thereof shall be available solely in the superior court of the county of domicile of the board.

(e) Nothing in this Code section shall be construed to prohibit the board from seeking remedies otherwise available by statute without first seeking a cease and desist order in accordance with the provisions of this Code section."

SECTION 4.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval, and Section 3 of this Act shall apply to violations committed on or after the effective date of this Act.

SECTION 5.

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

Approved May 24, 2007.

JOINT STUDY COMMITTEE ON TRANSPORTATION FUNDING.

No. 218 (Senate Resolution No. 365).

A RESOLUTION

Creating the Joint Study Committee on Transportation Funding; and for other purposes.

WHEREAS, transportation is a critical resource in the State of Georgia in providing a high quality of life for residents across the state; and

WHEREAS, transportation is essential to commerce and the provision of goods and services to the people of this state, to getting the citizens of Georgia to the workplace, medical facilities, and educational facilities, to the tourism industry, and to every facet of the lives of Georgia citizens; and

WHEREAS, finding the necessary funds to maintain and improve our transportation systems and infrastructure is becoming increasingly difficult; and

WHEREAS, new sources and methods of funding transportation projects are needed to allow the transportation systems in Georgia to keep up with the needs of the population; and

WHEREAS, the General Assembly needs to study these issues to determine alternative funding mechanisms for transportation projects and special funding sources.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that there is created the Joint Study Committee on Transportation Funding to be

composed of eight members. The committee shall be composed of the chairperson of the Senate Transportation Committee, the chairperson of the House Committee on Transportation, three members of the Senate appointed by the Lieutenant Governor, and three members appointed by the Speaker of the House of Representatives. The chairperson of the Senate Transportation Committee and the chairperson of the House Committee on Transportation shall serve as cochairpersons of the committee. The cochairpersons shall call all meetings of the committee.

BE IT FURTHER RESOLVED that the committee shall undertake a study of the conditions, needs, issues, and problems mentioned above or related thereto and recommend any actions or legislation that the committee deems necessary or appropriate. The committee may conduct such meetings at such places and at such times as it may deem necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this resolution. The members of the committee shall receive the allowances authorized for legislative members of interim legislative committees but shall receive the same for not more than six days unless additional days are authorized. The funds necessary to pay the allowances for the members of the committee shall come from the funds appropriated to the House of Representatives and the Senate. The funds necessary to pay all other expenses incurred by the committee shall come from the funds appropriated to the Department of Transportation. The Department of Transportation is authorized and directed to provide the committee with such logistical, professional, and other support as the committee deems appropriate to carry out the committee's duties under this resolution. In the event that the committee makes a report of its findings and recommendations with suggestions for proposed legislation, if any, such report shall be made on or before December 31, 2007. The committee shall stand abolished on December 31, 2007.

Approved May 24, 2007.

PROFESSIONS – RETIRED PHYSICIANS; CONTINUING EDUCATION.

No. 219 (House Bill No. 626).

AN ACT

To amend Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians, acupuncture, physician's assistants, cancer and glaucoma treatment, respiratory care, clinical perfusionists, and orthotics and prosthetics practice, so as to provide for a

maximum number of continuing education hours that retired physicians providing uncompensated health care services shall be required to complete; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians, acupuncture, physician's assistants, cancer and glaucoma treatment, respiratory care, clinical perfusionists, and orthotics and prosthetics practice, is amended in Code Section 43-34-3, relating to continuing education requirements for physicians and others, as follows:

"43-34-3.

(a)(1) The board shall be authorized to require persons seeking renewal of a license or certificate under this chapter to complete board approved continuing education of not less than 40 hours biennially. The board shall be authorized to approve courses offered by institutions of higher learning, specialty societies, or professional organizations, including, but not limited to, the American Medical Association, the National Medical Association, and the American Osteopathic Association, the number of hours required, and the category in which these hours should be earned. This paragraph shall not apply to respiratory care professionals or persons seeking renewal of certification as respiratory care professionals.

(2) The board shall be authorized to require persons seeking renewal of certification as respiratory care professionals under Article 6 of this chapter to complete board approved continuing education. The board shall be authorized to establish the number of hours of continuing education required biennially for renewal of certification as a respiratory care professional and the categories in which these hours should be earned. The board shall be authorized to approve courses offered by institutions of higher learning, specialty societies, or professional organizations. Any action taken by the board pursuant to this paragraph shall be taken in conformity with the provisions of Code Section 43-34-143.

(b)(1) The board shall be authorized to waive the continuing education requirement in cases of hardship, disability, illness, or in cases where physicians or physicians' assistants are serving in fellowships, new specialty residencies, postgraduate specialty programs, the United States Congress, or under such other circumstances as the board deems appropriate.

(2) The board shall require no more than 20 hours of continuing education annually for retired physicians who have an active license and who provide uncompensated health care services pursuant to Code Section 43-34-45.1 or Article 8 of Chapter 8 of Title 31; provided, however, the board shall be authorized to require up to 40 hours of continuing education for retired physicians who have not had an active license to practice medicine for up to five years.

(c) The board shall be authorized to promulgate rules and regulations to implement and ensure compliance with the requirements of this Code section.
(d) This Code section shall apply to each licensing, certification, and renewal cycle which begins after the 1990-1991 renewal."

SECTION 2.
All laws and parts of laws in conflict with this Act are repealed.

Approved May 24, 2007.

SOCIAL SERVICES – ENACT STATE FALSE MEDICAID CLAIMS ACT.

No. 220 (House Bill No. 551).

AN ACT

To amend Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to public assistance, so as to provide for the "State False Medicaid Claims Act"; to provide for a short title; to provide for legislative findings; to provide for definitions; to provide for liability to this state for certain false claims; to provide for civil actions for false Medicaid claims; to provide for exclusions for certain civil actions; to provide for procedure; to provide for burden of proof; to provide for whistleblower protection; to provide for statute of limitations; to provide for venue; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
This Act shall be known and may be cited as the "State False Medicaid Claims Act."

SECTION 2.
The General Assembly recognizes that the submission of false or fraudulent claims to the Georgia Medicaid program can and does cause the state treasury to incur serious financial losses which results in direct harm to the taxpayers of this state. This Act is intended to provide a partial remedy for this problem by providing specific procedures whereby this state, and private citizens acting for and on behalf of this state, may bring civil actions against persons and entities who have obtained state funds through the submission of false or fraudulent claims to state agencies. This Act, in its provision for double and sometimes

treble damages, is remedial in purpose, and is intended not to punish, but insofar as possible to make the state treasury whole for both the direct and indirect losses caused by the submission of false or fraudulent claims resulting in payments by this state or state agencies. By receiving a portion of the recovery in civil actions brought under this article, "whistle blowers" are encouraged to come forward when they have information about the submission of false claims to the Georgia Medicaid program, and rewarded when their initiative results in civil recoveries for this state.

SECTION 3.

Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to public assistance, is amended by adding a new article to read as follows:

"ARTICLE 7B

49-4-168.

As used in this article, the term:

(1) 'Claim' includes any request or demand, whether under a contract or otherwise, for money, property, or services, which is made to the Georgia Medicaid program, or to any officer, employee, fiscal intermediary, grantee or contractor of the Georgia Medicaid program, or to other persons or entities if it results in payments by the Georgia Medicaid program, if the Georgia Medicaid program provides or will provide any portion of the money or property requested or demanded, or if the Georgia Medicaid program will reimburse the contractor, grantee, or other recipient for any portion of the money or property requested or demanded. A claim includes a request or demand made orally, in writing, electronically, or magnetically. Each claim may be treated as a separate claim.

(2) 'Knowing' and 'knowingly' mean that a person, with respect to information:

(A) Has actual knowledge of the information;

(B) Acts in deliberate ignorance of the truth or falsity of the information; or

(C) Acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.

(3) 'Person' means any natural person, corporation, company, association, firm, partnership, society, joint-stock company, or any other entity with capacity to sue or be sued.

49-4-168.1.

(a) Any person who:

(1) Knowingly presents or causes to be presented to the Georgia Medicaid program a false or fraudulent claim for payment or approval;

(2) Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Georgia Medicaid program;

(3) Conspires to defraud the Georgia Medicaid program by getting a false or fraudulent claim allowed or paid;

(4) Has possession, custody, or control of property or money used, or to be used by the Georgia Medicaid program and, intending to defraud the Georgia Medicaid program or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate of receipt;

(5) Being authorized to make or deliver a document certifying receipt of property used, or to be used, by the Georgia Medicaid program and, intending to defraud the Georgia Medicaid program, makes or delivers the receipt without completely knowing that the information on the receipt is true;

(6) Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Georgia Medicaid program, who lawfully may not sell or pledge the property; or

(7) Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay, repay or transmit money or property to the State of Georgia,

shall be liable to the State of Georgia for a civil penalty of not less than $5,500.00 and not more than $11,000.00 for each false or fraudulent claim, plus three times the amount of damages which the Georgia Medicaid program sustains because of the act of such person.

(b) The provisions of subsection (a) of this Code section notwithstanding, if the court finds that:

(1) The person committing the violation of this subsection furnished officials of the Georgia Medicaid program with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;

(2) Such person fully cooperated with any government investigation of such violation; and

(3) At the time such person furnished the Georgia Medicaid program with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this article with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation,

the court may assess not more than two times the amount of the actual damages which the Georgia Medicaid program sustained because of the act of such person.

(c) A person violating any provision of this subsection shall also be liable to this state for all costs of any civil action brought to recover the damages and penalties provided under this article.

49-4-168.2.

(a) The Attorney General shall be authorized to investigate suspected, alleged, and reported violations of this article. If the Attorney General finds that a person has violated or is violating this article, then the Attorney General may bring a civil action against such person under this article.

(b) Subject to the exclusions set forth in this Code section, a civil action under this article may also be brought by a private person. A civil action shall be brought in the name of the State of Georgia. The civil action may be dismissed only if the court and the Attorney General give written consent to the dismissal and state the reasons for consenting to such dismissal.

(c) Where a private person brings a civil action under this article, such person shall follow the following special procedures:

(1) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Attorney General;

(2) The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The purpose of the period under seal shall be to allow the Attorney General to investigate the allegations of the complaint. The Attorney General may elect to intervene and proceed with the civil action within 60 days after it receives both the complaint and the material evidence and information;

(3) The Attorney General may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2) of this subsection. Any such motions may be supported by affidavits or other submissions in camera;

(4) Before the expiration of the 60 day period or any extensions obtained under paragraph (3) of this subsection, the Attorney General shall:

(A) Proceed with the civil action, in which case the civil action shall be conducted by the Attorney General; or

(B) Notify the court that it declines to take over the civil action, in which case the person bringing the civil action shall have the right to proceed with the civil action;

(5) The defendant shall not be required to respond to any complaint filed under this Code section until 30 days after the complaint is unsealed and served upon the defendant; and

(6) When a person brings a civil action under this subsection, no person other than the Attorney General may intervene or bring a related civil action based on the facts underlying the pending civil action.

(d)(1) If the Attorney General elects to intervene and proceed with the civil action, he or she shall have the primary responsibility for prosecuting the civil action, and shall not be bound by an act of the person bringing such civil action. Such person shall have the right to continue as a party to the civil action, subject to the limitations set forth in this subsection.

(2) The Attorney General may dismiss the civil action, notwithstanding the objections of the person initiating the civil action, if the person has been notified by the Attorney General of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion.

(3) The Attorney General may settle the civil action with the defendant notwithstanding the objections of the person initiating the civil action if the court determines, after a

hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera.

(4) Upon a showing by the Attorney General that unrestricted participation during the course of the litigation by the person initiating the civil action would interfere with or unduly delay the Attorney General's litigation of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as:

(A) Limiting the number of witnesses the person may call;

(B) Limiting the length of the testimony of such witnesses;

(C) Limiting the person's cross-examination of witnesses; or

(D) Otherwise limiting the participation by the person in the litigation.

(e) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the civil action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

(f) If the Attorney General elects not to proceed with the civil action, the person who initiated the civil action shall have the right to conduct the civil action. If the Attorney General so requests, he or she shall be served with copies of all pleadings filed in the civil action and shall be supplied with copies of all deposition transcripts. When a person proceeds with the civil action, the court may nevertheless permit the Attorney General to intervene at a later date for any purpose, including, but not limited to, dismissal of the civil action notwithstanding the objections of the person initiating the civil action if such person has been notified by the Attorney General of the filing of such motion and the court has provided such person with an opportunity for a hearing on such motion.

(g) Whether or not the Attorney General proceeds with the civil action, upon a showing by the Attorney General that certain actions of discovery by the person initiating the civil action would interfere with the Attorney General's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60 day period upon a further showing in camera that the Attorney General has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

(h) Notwithstanding subsections (b) and (c) of this Code section, the Attorney General may elect to pursue this state's claim through any alternate remedy available to the Attorney General, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the civil action shall have the same rights in such proceeding as such person would have had if the civil action had continued under this Code section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to a civil action under this Code section. For purposes of this

subsection, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the State of Georgia, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

(i)(1) If the Attorney General proceeds with a civil action brought by a private person under subsection (b) of this Code section, such person shall, subject to the second sentence of this paragraph, receive at least 15 percent but not more than 25 percent of the proceeds of the civil action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the civil action. Where the civil action is one which the court finds to be based primarily on disclosures of specific information, other than information provided by the person bringing the civil action, relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative, administrative, or Attorney General hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information and the role of the person bringing such civil action in advancing the case to litigation. Any payment to a person under the first or second sentence of this paragraph shall be made from the proceeds. The remaining proceeds shall be payable to the Indigent Care Trust Fund to be used for the purposes set forth in Code Section 31-8-154. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(2) If the Attorney General does not proceed with a civil action under this Code section, the person bringing the civil action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. Such amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the civil action or settlement and shall be paid out of such proceeds. The remaining proceeds shall be payable to the Indigent Care Trust Fund to be used for the purposes set forth in Code Section 31-8-154. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(3) Whether or not the Attorney General proceeds with the civil action, if the court finds that the civil action was brought by a person who planned and initiated the violation of Code Section 49-4-168.1 upon which the civil action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the civil action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the civil action is convicted of criminal conduct arising from his or her role in the violation of Code Section 49-4-168.1, such person shall be dismissed from the civil action and

shall not receive any share of the proceeds of the civil action. Such dismissal shall not prejudice the right of the State of Georgia to continue the civil action, represented by the Attorney General.

(4) If the Attorney General does not proceed with the civil action and the person bringing the civil action conducts the civil action, the court may award to the defendant its reasonable attorney's fees and expenses against the person bringing the civil action if the defendant prevails in the civil action and the court finds that the claim of the person bringing the civil action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

(5) The State of Georgia shall not be liable for expenses which a private person incurs in bringing a civil action under this article.

(j) For purposes of this subsection, 'public employee,' 'public official,' and 'public employment' shall include federal, state, and local employees and officials.

(1) No civil action may be brought under this article by a person who is or was a public employee or public official if the allegations of such action are substantially based upon:

(A) Allegations of wrongdoing or misconduct which such person had a duty or obligation to report or investigate within the scope of his or her public employment or office; or

(B) Information or records to which such person had access as a result of his or her public employment or office.

(2) No court shall have jurisdiction over a civil action under this article based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a legislative, administrative, or Attorney General report, hearing, audit, or investigation, or from the news media, unless the civil action is brought by the Attorney General or unless the person bringing the civil action is an original source of the information. For purposes of this paragraph, 'original source' means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to this state before filing a civil action under this Code section based on such information.

(3) In no event may a person bring a civil action under this article which is based upon allegations or transactions which are the subject of a civil or administrative proceeding to which the State of Georgia is already party.

(4) No civil action may be brought under this article with respect to any claim relating to the assessment, payment, nonpayment, refund or collection of taxes pursuant to any provisions of Title 48.

49-4-168.3.

(a) In any civil action brought under this article, the State of Georgia or person bringing the civil action shall be required to prove all essential elements of the cause of civil action, including damages, by a preponderance of the evidence.

(b) Except as otherwise provided in this article, all civil actions brought under this article shall be governed by the provisions of Chapter 11 of Title 9, the 'Georgia Civil Practice Act.'

49-4-168.4.

Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee, on behalf of the employee or others, in furtherance of a civil action under this article, including investigation for, initiation of, testimony for, or assistance in a civil action filed or to be filed under this article, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, two times the amount of back pay, interest on the back pay award, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees. An employee may bring a civil action in an appropriate court of the State of Georgia for the relief provided in this Code section.

49-4-168.5.

All civil actions under this article shall be filed pursuant to Code Section 49-4-168.2 within six years after the date the violation was committed, or three years after the date when facts material to the right of civil action are known or reasonably should have been known by the state official charged with the responsibility to act in the circumstances, whichever occurs last; provided, however, that in no event shall any civil action be filed more than ten years after the date upon which the violation was committed.

49-4-168.6.

All civil actions brought against natural persons under this article shall be brought in the county where the defendant or, in the case of multiple defendants, or of defendants who are not residents of the State of Georgia, in any county where any one defendant resides, can be found, transacts business or commits an act in furtherance of the submittal of a false or fraudulent claim to the Georgia Medicaid program."

SECTION 4.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 5.

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

Approved May 24, 2007.

PENAL INSTITUTIONS – PRIVATE OR GOVERNMENTAL PROBATION SERVICES; REGISTRATION FEES.

No. 221 (House Bill No. 527).

AN ACT

To amend Article 6 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to agreements for probation services, so as to preclude registration fees for private or governmental probation services registering with the County and Municipal Probation Advisory Council; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 6 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to agreements for probation services, is amended by revising paragraphs (a)(1) and (b)(1) of Code Section 42-8-107, relating to registration with the County and Municipal Probation Advisory Council, as follows:

"(a)(1) All private corporations, private enterprises, and private agencies contracting or offering to contract for probation services shall register with the council before entering into any contract to provide services. The information included in such registration shall include the name of the corporation, enterprise, or agency, its principal business address and telephone number, the name of its agent for communication, and other information in such detail as the council may require. No registration fee shall be required."

"(b)(1) All counties, municipalities, and consolidated governments agreeing or offering to agree to establish a probation system shall register with the council before entering into an agreement with the court to provide services. The information included in such registration shall include the name of the county, municipality, or consolidated government, the principal business address and telephone number, a contact name for communication with the council, and other information in such detail as the council may require. No registration fee shall be required."

SECTION 2.

This Act shall become effective on July 1, 2007.

SECTION 3.

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

Approved May 24, 2007.

DEDICATING THE GERALD DASHER MEMORIAL STATE FARMERS' MARKET.

No. 222 (House Resolution No. 524).

A RESOLUTION

Dedicating the Gerald Dasher Memorial State Farmers' Market; and for other purposes.

WHEREAS, Gerald Dasher was a prominent citizen of Tattnall County, Georgia; and

WHEREAS, he was a businessman and also served on the county commission as a member and as chairman; and

WHEREAS, he was a pioneer in the Vidalia onion business and served as CEO of one of the largest family owned Vidalia onion farms in this state; and

WHEREAS, he was a major force in the development of the Vidalia Onion Marketing Order and helped to establish the Vidalia name in the major chain supermarkets; and

WHEREAS, Gerald Dasher was instrumental in building countless road projects and served on numerous boards and committees dedicated to the betterment of the quality of life in Tattnall County; and

WHEREAS, he spearheaded many major developments in the county, particularly the development and location of the Glennville Health Department; and

WHEREAS, he was active in local and state politics and was a loving husband, father of two children, and grandfather of four; and

WHEREAS, it is only fitting that Gerald Dasher be memorialized for his service to the community and this state.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the State Farmers' Market in Glennville, Georgia, is dedicated as the Gerald Dasher Memorial State Farmers' Market in memory of the outstanding public service he rendered, and the Department of Transportation is authorized and directed to place and maintain appropriate markers dedicating the Gerald Dasher Memorial State Farmers' Market.

BE IT FURTHER RESOLVED that the Clerk of the House of Representative is authorized and directed to transmit appropriate copies of this resolution to the family of Gerald Dasher and to the Department of Transportation.

Approved May 24, 2007.

REVENUE – TAX COMMISSIONERS; MUNICIPAL TAXES; COLLECTION; COMPENSATION.

No. 223 (House Bill No. 486).

AN ACT

To amend Code Section 48-5-359.1 of the Official Code of Georgia Annotated, relating to contracts with the county tax commissioner to assess and collect municipal taxes and prepare the tax digest, so as to change certain provisions regarding compensation to be paid to the tax commissioner for additional duties; to provide for an exception; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-5-359.1 of the Official Code of Georgia Annotated, relating to contracts with the county tax commissioner to assess and collect municipal taxes and prepare the tax digest, is amended by revising subsection (a) as follows:

"(a)(1)(A) This paragraph shall apply to a county which has fewer than 50,000 tax parcels within such county.

(B) Any county and any municipality wholly or partially located within such county may contract, subject to approval by the tax commissioner of the county, for the tax commissioner to prepare the tax digest for such municipality; to assess and collect municipal taxes in the same manner as county taxes; and, for the purpose of collecting such municipal taxes, to invoke any remedy permitted for collection of municipal taxes.

Any contract authorized by this subsection between the county governing authority and a municipality shall specify an amount to be paid by the municipality to the county which amount will substantially approximate the cost to the county of providing the service to the municipality. Notwithstanding the provisions of any other law, the tax commissioner is authorized to contract for and to accept, receive, and retain compensation from the municipality for such additional duties and responsibilities in addition to that compensation provided by law to be paid to the tax commissioner by the county.

(2)(A) This paragraph shall apply to any county which has 50,000 or more tax parcels within such county.

(B) Any county and any municipality wholly or partially located within such county may contract for the tax commissioner to prepare the tax digest for such municipality; to assess and collect municipal taxes in the same manner as county taxes; and, for the purpose of collecting such municipal taxes, to invoke any remedy permitted for collection of municipal taxes. Any contract authorized by this subsection between the county governing authority and a municipality shall specify an amount to be paid by the municipality to the county which amount will substantially approximate the cost to the county of providing the service to the municipality. Notwithstanding the provisions of any other law, the tax commissioner is authorized to accept, receive, and retain compensation from the county for such additional duties and responsibilities in addition to that compensation provided by law to be paid to the tax commissioner by the county."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 24, 2007.

CONVEYANCE OF STATE OWNED REAL PROPERTY.

No. 224 (House Resolution No. 369).

A RESOLUTION

Authorizing the conveyance of certain state owned real property located in Baldwin County, Georgia; authorizing the conveyance of certain state owned real property located in Charlton County, Georgia; authorizing the conveyance of certain state owned real property located in Chatham County, Georgia; authorizing the conveyance of certain state owned real property located in Coffee County, Georgia; authorizing the conveyance of certain state owned real property located in Columbia County, Georgia; authorizing the conveyance of certain state owned real property located in Forsyth County, Georgia; authorizing the conveyance of certain state owned real property located in Fulton County, Georgia; authorizing the conveyance of certain state owned real property located in Hall County, Georgia; authorizing the conveyance of certain state owned real property located in McDuffie County, Georgia; authorizing the conveyance of certain state owned real property located in Pulaski County, Georgia; authorizing the conveyance of certain state owned real property located in Stephens County, Georgia; authorizing the conveyance of certain state owned real property located in Tattnall County, Georgia; authorizing the conveyance of certain state owned real property located in Treutlen County, Georgia; authorizing the conveyance of certain state owned real property located in Troup County, Georgia; authorizing the conveyance of certain state owned real property located in Wayne County, Georgia; authorizing the conveyance of certain state owned real property located in Whitfield County, Georgia; to repeal conflicting laws; and for other purposes.

WHEREAS:

(1) The State of Georgia is the owner of certain tracts of real property located in Baldwin County, Georgia;

(2) Said real property are all those tracts or parcels of land lying and being in land lots 265, 266, 281, 282 and 295 of the 1st district of Baldwin County and containing a total of approximately 279.82 acres and is more particularly described as parcel no. 2, 3, 4 and 5 on a plat of survey entitled "Georgia Department of Juvenile Justice Bill Ireland Youth Development Campus" prepared by Steven A. Coleman, Georgia Registered Land Surveyor #2690, dated March 31, 2006 and revised February 5, 2007 and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) Said tracts are portions of the Bill Ireland Youth Development Campus, now under the custody of the Department of Juvenile Justice;

(4) Said tracts are excess to the campus site and beyond any fenced area;
(5) The Board of Juvenile Justice intends to declare the above-described property surplus to the needs of the Department of Juvenile Justice;
(6) It has been determined that it would be in the best interest of the State of Georgia to sell the above-described property by competitive bid; and

WHEREAS:
(1) The State of Georgia is the owner of a certain parcel of real property located in Charlton County, Georgia;
(2) Said real property is all that tract or parcel of land in the City of Folkston, lying and being in the 32nd GMD of Charlton County consisting of 0.56 of one acre as more particularly described as tract #3 and highlighted in green on a plat of survey dated January 24, 2007 and prepared by M. Rhett Royal, Georgia Registered Land Surveyor #2156 and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land surveyor and presented to the State Properties Commission for approval;
(3) Said property is under the custody of the Department of Natural Resources and is a portion of the Okefenokee Education and Research Center site;
(4) The Okefenokee Education and Research Center site consists of a total of 3.9 acres and was donated to the State of Georgia in 2002 by the Renfroe-Mills Foundation;
(5) The Department of Natural Resources has never used said property in conjunction with operation of the Okefenokee Education and Research Center;
(6) The City of Folkston has requested that the above-described be conveyed to the city for use as a public park and has received a grant to operate the property as a park;
(7) The Renfroe-Mills Foundation has no objection to the conveyance of the above-described property to the City of Folkston for use as a public park;
(8) The Board of Natural Resources by Resolution dated January 24, 2007, recommended conveyance of the above-described property to the City of Folkston to be utilized for public purpose; and

WHEREAS:
(1) The State of Georgia is the owner of a certain parcel of real property located in Charlton County Georgia;
(2) Said real property is all that tract or parcel of land in the City of Folkston, lying and being in the 32nd GMD, consisting of approximately 1.34 acres and is more particularly described as tract # 2 and highlighted in green on a plat of survey dated January 24, 2007 prepared by M. Rhett Royal, Georgia Registered Land Surveyor #2156 and being on file in the offices of the State Properties Commission and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) Said property is under the custody of the Department of Natural Resources and is a portion of the Okefenokee Education and Research Center site;
(4) The Okefenokee Education and Research Center consists of a total of 3.9 acres and was donated to the State of Georgia in 2002 by the Renfroe-Mills Foundation;
(5) The Department of Natural Resources has never used said property in conjunction with the operation of the Okefenokee Education and Research Center;
(6) Charlton County has requested that the above-described property be conveyed to the county for renovation and use as county government offices;
(7) The Renfroe-Mills Foundation has no objection to the above-described property being conveyed to Charlton County for a public purpose;
(8) The Board of Natural Resources by Resolution dated January 24, 2007, recommended that the above-described property be conveyed to Charlton County to be utilized for public purpose; and

WHEREAS:
(1) The State of Georgia is the owner of a certain parcel of real property located in Chatham County, Georgia;
(2) Said real property is all that tract or parcel of land lying and being in the 8th Georgia Militia District of Chatham County, Georgia and containing approximately 1.619 acres and is more particularly described on a plat of survey March 7, 1997 and prepared by Lamar O. Reddick, Georgia Registered Land Surveyor #1387 and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
(3) Said property is under the custody of the Department of Technical and Adult Education and has been the location of the Savannah Quick Start program;
(4) The Department of Technical and Adult Education has relocated its Savannah Quick Start program to the Savannah Tech Crossroads Building and no longer has a need for the above-described property;
(5) It has been determined that it would be in the best interest of the State of Georgia to sell the above-described property by competitive bid; and

WHEREAS:
(1) The State of Georgia is the owner of a certain parcel of real property located in Chatham County, Georgia;
(2) Said real property is all that tract or parcel of land lying and being in Hardee Ward of the City of Savannah, Chatham County, Georgia and containing approximately 7 acres and is more particularly described on a plat of survey dated October 2, 1983 and prepared by Lester Land Surveying and more particularly Paul Howard Lester, Georgia Registered Land Surveyor #1914 and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia

Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) Said property is under the custody of the Department of Corrections and has previously been the location of the Savannah Diversion Center;

(4) The Department of Corrections no longer carries on any operations at the above-described location;

(5) It has been determined that it would be in the best interest of the State of Georgia that the above-described property be sold by competitive bid; and

WHEREAS:

(1) The State of Georgia is the owner of a certain parcel of real property located in Coffee County, Georgia;

(2) Said real property is all that tract or parcel of land lying and being in the City of Douglas and being in land lot 177 of the 6th district of Coffee County, Georgia and containing approximately 0.83 of one acre and is more particularly described on a plat of survey dated September 18, 1984 and prepared by Carlton Evans, Georgia Registered Land Surveyor #1747 and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) Said property is under the custody of the Department of Labor and physical facilities located thereon were formerly used as the local office of the Department of Labor;

(4) The facilities located on the above-described property are no longer adequate for the operation of the Department of Labor;

(5) The Department of Labor, by letter from the Commissioner dated December 11, 2006, has determined that such improved real property and the physical facilities located thereon cannot any longer fulfill its needs and that replacement physical facilities to be situated on real properties at other locations in the same city or county are necessary; and

WHEREAS:

(1) The State of Georgia is the owner of a certain parcel of real property located in Columbia County, Georgia;

(2) Said real property is all that tract or parcel of land lying and being in Georgia Militia District No. 1285 of Columbia County, Georgia and containing approximately 9.15 acres as shown in green on a plat of survey dated February 24, 2005 and revised February 20, 2006 and prepared by John Thomas Attaway, Georgia Registered Land Surveyor #2512, said plat being altered to depict the subject 9.15 acres by Thomas Mann dated February 5, 2007 and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) Said property is under the custody of the Department of Technical and Adult Education and is to be the location of the Columbia County Center of Augusta Technical College;
(4) The above-described 9.15 acre parcel is a portion of a 33.56 acre tract conveyed to the State of Georgia by Columbia County for a consideration of $10.00;
(5) It has been determined and Columbia County has requested that the above-described property be conveyed to Columbia County in order for the county to provide adequate access and egress to the above-mentioned Columbia County Center of Augusta Technical College;
(6) By letter dated February 5, 2007, the Department of Technical and Adult Education requested that the above 9.15 acre tract be conveyed to Columbia County; and

WHEREAS:
(1) The State of Georgia is the owner of a certain parcel of real property located in Forsyth County, Georgia;
(2) Said real property is all that tract or parcel of land lying and being in land lot 988 of the 3rd district 1st section of Forsyth County, Georgia and containing approximately 0.90 of one acre as shown on a plat of survey dated July 8, 1982 and prepared by William C. Mundy, Georgia Registered Land Surveyor No. 2131 and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;
(3) Said property is under the custody of the Georgia Forestry Commission and was formerly used as the Forsyth County Office for the commission;
(4) Said property was acquired by Executor's Deed of the Last Will and Testament of Marcus Mashburn Sr. through a Corrective Executor's Deed dated May 2, 1983, and being on file at the offices of the State Properties Commission as Real Property Record No. 007141;
(5) The Georgia Forestry Commission has relocated to a more suitable location and by letter dated October 17, 2005, the director of the Georgia Forestry Commission declared the above-described property surplus to the needs of the commission; and

WHEREAS:
(1) The State of Georgia is the owner of certain parcels of real property located in Fulton County, Georgia;
(2) Said real properties are all those tracts or parcels of land lying and being in land lots 82 and 83 of the 14th district of Fulton County, Georgia and containing approximately 4.23 acres as shown on Department of Transportation right of way plans dated January 5, 2005 and being project STP-0000-00(554) sheet 2 of 12 and project CSSTP-0006-001(952) sheets 3 of 12, 4 of 12, 5 of 12, 6 of 12 and 12 of 12 and being on file in the offices of the State Properties Commission, and may be more particularly

described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) Said property is under the custody of Department of Economic Development and leased to the Georgia World Congress Center;

(4) The Georgia Department of Transportation intends to widen and improve certain portions of Jones Street, Simpson Street and Alexander Street which adjoin the Georgia World Congress Center;

(5) In conjunction with the above-mentioned street projects it will be necessary for the Georgia Department of Transportation to acquire 2.42 acres and to acquire easements to 1.81 acres of the above-described 4.23 acres;

(6) The Board of Economic Development by Resolution dated February 15, 2007, and the Georgia World Congress Center Authority by Resolution dated February 13, 2007, approved the conveyance of the above-described to the Georgia Department of Transportation; and

WHEREAS:

(1) The State of Georgia is the owner of a certain parcel of real property located in Hall County, Georgia;

(2) Said real property is all that tract or parcel of land lying and being in the City of Gainesville and being in land lot 7 of the 8th district of Hall County, Georgia and containing approximately 1.56 acres and is more particularly described on a plat of survey June 16, 1989 and prepared by J. A. Page, Jr., Georgia Registered Land Surveyor #1894 and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) Said property is under the custody of the Department of Labor and the physical facilities located thereon were formerly used as the local office of the Department of Labor;

(4) The facilities located on the above-described property are no longer adequate for the operation of the Department of Labor;

(5) The Department of Labor, by letter from the Commissioner dated December 11, 2006, has determined that such improved real property and the physical facilities located thereon cannot any longer fulfill its needs and that replacement physical facilities to be situated on real properties at other locations in the same city or county are necessary; and

WHEREAS:

(1) The State of Georgia is the owner of a certain parcel of real property located in McDuffie County, Georgia;

(2) Said real property is all that tract or parcel of land lying and being in the 274th G. M. District of McDuffie County, Georgia and containing approximately .50 of one acre and is more particularly described on a plat of survey entitled "Property Plat for

Thomson-McDuffie County Airport" dated November 16, 1976 and prepared by Frank K. Story, Georgia Registered Land Surveyor No. 1754 and being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) Said property is under the custody of the Department of Public Safety and is the location of the department's aircraft hanger at Thomson-McDuffie Regional Airport;

(4) Said property was conveyed to the State by McDuffie County and the City of Thomson in 1977 for a consideration of $10.00;

(5) McDuffie County and the City of Thomson have agreed to convey an approximately one acre parcel of suitable property, as determined by the State Properties Commission and the Department of Public Safety to be in the best interest of the state, at Thomson-McDuffie County Regional Airport in exchange for the above-described state owned property whereby the Department of Public Safety may construct a new hanger facility;

(6) The above-described exchange of properties is recommended by the Department of Public Safety; and

WHEREAS:

(1) The State of Georgia is the owner of a certain parcel of real property located in Pulaski County, Georgia;

(2) Said real property is all those tracts or parcels of land lying and being in land lot NO. 272 in the 12th land district of Pulaski County and containing approximately 5 acres as shown on a plat of survey entitled "National Guard Property Hawkinsville, Pulaski Co. Ga. adapted from plats by T. L. Ellis CE# 628 dated 10/8/54 and 4/1/55 all being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) Said property is the former location of the National Guard Armory for Pulaski County;

(4) The Department of Defense is consolidating certain of its locations and activities and intends to close the above-described Pulaski County National Guard Armory;

(5) Pulaski County provided the above-described property to the State of Georgia in 1966 for a consideration of $10.00;

(6) Pulaski County is desirous of acquiring the above-described property for public purposes; and

WHEREAS:

(1) The State of Georgia is the owner of a certain parcel of real property located in Stephens County, Georgia;

(2) Said real property is all that tract or parcel of land lying and being in Stephens County, State of Georgia and within the corporate limits of the City of Toccoa, Georgia and more particularly described as follows: Beginning at a point, the same being the northeast intersection of State Highways Nos. 17 and 13, thence along the north side of right-of-way of State Highway No. 13, north 82 3/4 east 150 feet to an iron pin; thence north 7 1/4 W 76 feet to a stake on the right of way of the Southern Railway Co., thence along said Southern Railway Company right of way S 79-3/4 167 feet to a stake on the East side of the Old right of way of State Highway #17, thence 59 1/2 feet to the beginning corner, according to plat and survey of M. B. Collier, County Surveyor, dated June 1st, 1940 and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) Said property was the former site of the Georgia State Patrol post and barracks for Stephens County;

(4) It has been determined that the Department of Public Safety no longer has a need for the above-described property; and

WHEREAS:

(1) The State of Georgia is the owner of real property interests in a certain parcel of real property located in Tattnall County, Georgia;

(2) Said real property interests are in all that tract or parcel of land lying and being in the 41st G. M. District of Tattnall County, Georgia and more particularly described in a "Use Agreement" and "Deed of Conveyance of Personal Property" as follows: two acres surrounding the 50 feet by 60 feet by 20 feet Airport hanger building on the Southwestern corner of the Reidsville Municipal airport and bounded now or formerly as follows, to wit: On the north by lands of the Reidsville Municipal Airport Authority, on the East by lands of said Authority, on the South by lands of said Authority, and on the West by other lands of said Authority and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) Said property is the site of the Department of Public Safety aircraft hanger at Reidsville Municipal Airport;

(4) The City of Reidsville and the Reidsville Municipal Airport Authority have agreed to convey to the State of Georgia a new site at Reidsville Municipal Airport upon which the Department of Public Safety may construct a new hanger facility, which will better suit the needs of the department, in exchange for the conveyance of the above-described property in which the state owns certain interests;

(8) The above-described exchange of property and property interests is recommended by the Department of Public Safety; and

WHEREAS:

(1) The State of Georgia is the owner of certain parcels of real property located in Treutlen County, Georgia;

(2) Said real properties are all those tracts or parcels of land lying and being in Georgia Militia District No. 1386 of Treutlen County, State of Georgia containing approximately 4.03 acres and being more particularly described as lot 4 and lot 5 on a plat of survey entitled "Proposed Acquisition by The State of Georgia Custody in the Department of Corrections" prepared by Olin J. McLeod Georgia Registered Land Surveyor and being on file in the offices of the State Properties Commission and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) Said property is a portion of 15.82 acre tract acquired in 1991 as an expansion site for the Treutlen Probation Detention Center;

(4) The above-described property was acquired from Treutlen County for a consideration of $38,000.00;

(5) Treutlen County is desirous of acquiring the above-described 4.03 acre tracts of property for the purpose of constructing a new county jail;

(6) The Board of Corrections at its meeting of February 16, 2007, declared the above-described property surplus to the needs of the Department of Corrections; and

WHEREAS:

(1) The State of Georgia is the owner of a certain parcel of real property located in Troup County, Georgia;

(2) Said real property is all that tract or parcel of land lying and being in land lot 161 of the 5th district of Troup County, Georgia and containing approximately 4.65 acres as shown on a plat of survey entitled "Gabbettville Road 115/25 KV Substation Property Plat", dated July 11, 2006 and prepared by Albert M Wynn, Georgia Registered Land Surveyor No. 2178, and being on file in the offices of the State Properties Commission and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) Said property is a portion of the economic development project site in conjunction with the Kia Automobile Company;

(4) Said property is designed to be the location of an electric power substation to be owned and operated by Oglethorpe Power Corporation;

(5) Oglethorpe Power Corporation has agreed to convey a 4.65 acre parcel of property owned by the corporation within close proximity to the above-described property in exchange for the above-described property; and

WHEREAS:

(1) The State of Georgia is the owner of a certain parcel of real property located in Wayne County, Georgia;

(2) Said real property is all those tracts or parcels of land lying and being in the City of Jesup, Wayne County and containing approximately 5 acres as shown on a plat of survey entitled "National Guard Property Jesup, Wayne County, Georgia, by Percy A. Brannen, Georgia Registered Land Surveyor No. 868, and dated 28 January 1970 all being on file in the offices of the State Properties Commission, and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) Said property is the former location of the National Guard Armory for Wayne County;

(4) The Department of Defense is consolidating certain of its locations and activities and intends to close the above-described Wayne County National Guard Armory;

(5) The Wayne County Hospital Authority conveyed the property to the State of Georgia in 1962 for a consideration of $10.00;

(6) The Wayne County Hospital Authority is desirous of acquiring the above-described property for public purposes; and

WHEREAS:

(1) The State of Georgia is the owner of certain parcels of real property located in Whitfield County, Georgia;

(2) Said real property is all that tract or parcel of land lying and being in land lot 161 of the 11th district, 3rd section of Whitfield County and containing approximately 1.99 acres as shown on a plat of survey entitled "Boundary Survey for Georgia Forestry Commission State of Georgia" as prepared by Joseph Vance Evans, Georgia Registered Land Surveyor #1105, dated April 18th 1977 and being on file in the offices of the State Properties Commission and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) Said property is the location of Georgia Forestry Commission fire tower;

(4) The Georgia Forestry Commission no longer has a need for this tower location;

(5) The Georgia Forestry Commission acquired the above-described property through the Forest Service, United States Department of Agriculture who originally acquired the above-described property from Allen D. Crow;

(6) The above-described property is completely surrounded by the Crow family farm and the family has requested that they be conveyed the property; and

WHEREAS:

(1) The State of Georgia is the owner of certain parcels of real property located in Whitfield County, Georgia;

(2) Said real property is all that tract or parcel of land lying and being in the City of Tunnel Hill, Whitfield County and containing approximately 3.3 acres and shown as parcels 4 and 7 on Western and Atlantic Railroad valuation map V2/51 and being on file in the offices of the State Properties Commission and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) Said property is the location of the old depot site for the Western and Atlantic Railroad in the City of Tunnel Hill, Whitfield County;

(4) By deed of quitclaim and release CSX Transportation released its leasehold interest in the above-described property;

(5) The City of Tunnel Hill is desirous of acquiring the above-described property in order to incorporate the property in its railroad museum program.

NOW, THEREFORE, BE IT RESOLVED AND ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I

SECTION 1.

That the State of Georgia is the owner of the above-described Baldwin County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 2.

That the above-described 279.82 acre tracts of real property may be sold by competitive bid by the State of Georgia, acting by and through its State Properties Commission, for a consideration of not less than the fair market value of such properties as determined by the State Properties Commission to be in the best interest of the State of Georgia; provided, however, that all or a portion of the above-described real property may be sold to a city, county, school board, or other local public entity, which shall include development authorities, for not less than the fair market value, as determined to be in the best interest of the State of Georgia by the State Properties Commission, without the necessity of competitive bid, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 3.

That the authorization in this resolution to sell the above-described property by competitive bid or to a public entity shall expire five years after the date that this resolution becomes effective.

SECTION 4.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such sale.

SECTION 5.

That the deed of conveyance or conveyances shall be recorded by the grantee in the Superior Court of Baldwin County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 6.

That custody of the above-described property shall remain in the Department of Juvenile Justice until the property is conveyed.

ARTICLE II

SECTION 7.

That the State of Georgia is the owner of the above-described Charlton County property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 8.

That the above-described real property may be conveyed by appropriate instrument by the State of Georgia, acting by and through its State Properties Commission, to the City of Folkston for a consideration of $10.00, so long as the property is used for public park, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 9.

That the authorization in this resolution to convey the above-described property shall expire three years after the date that this resolution becomes effective.

SECTION 10.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such sale.

SECTION 11.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Charlton County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 12.

That custody of the above-described property shall remain in the Department of Natural Resources until the property is conveyed.

ARTICLE III

SECTION 13.

That the State of Georgia is the owner of the above-described Charlton County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 14.

That the above-described real property may be conveyed by appropriate instrument, acting by and through the State Properties Commission, to Charlton County for a consideration of $10.00, so long as the property is used for public purpose, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 15.

That the authorization in this resolution to convey the above-described property shall expire three years after the date that this resolution becomes effective.

SECTION 16.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 17.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Charlton County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 18.

That custody of the above-described property shall remain in the Department of Natural Resources until the property is conveyed.

ARTICLE IV

SECTION 19.

That the State of Georgia is the owner of the above-described Chatham County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 20.

That the above-described real property may be sold by competitive bid for a consideration not less than the fair market value, as determined to be in the best interest of the State of Georgia by the State Properties Commission, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 21.

That the authorization in this resolution to sell the above-described property shall expire three years after the date that this resolution becomes effective.

SECTION 22.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 23.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Chatham County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 24.

That custody of the above-described property shall remain in the Department of Technical and Adult Education until the property is conveyed.

ARTICLE V

SECTION 25.

That the State of Georgia is the owner of the above-described Chatham County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 26.

That the above-described real property may be sold by competitive bid for a consideration not less than the fair market value, as determined to be in the best interest of the State of Georgia by the State Properties Commission, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 27.

That the authorization in this resolution to sell the above-described property shall expire three years after the date that this resolution becomes effective.

SECTION 28.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 29.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Chatham County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 30.

That custody of the above-described property shall remain in the Department of Corrections until the property is conveyed.

ARTICLE VI

SECTION 31.

That the State of Georgia is the owner of the above-described Coffee County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 32.

That the above-described 0.83 of one acre parcel of property may be sold by competitive bid by the State of Georgia, acting by and through its State Properties Commission, for a consideration of not less than the fair market value as determined by the State Properties Commission to be in the best interest of the state; provided, however, that the above-described real property may be sold to a city, county, school board, or other local public entity, which shall include development authorities, for not less than the fair market value, as determined to be in the best interest of the State of Georgia by the State Properties Commission, without the necessity of competitive bid and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 33.

Notwithstanding Code Section 45-12-92 of the O.C.G.A. or any other provision of law, the State Properties Commission may permit any cash considerations received from said disposition to be retained by the Department of Labor and applied by the department to its replacement needs.

SECTION 34.

That the authorization in this resolution to sell the above-described real property shall expire three years after the date that this resolution becomes effective.

SECTION 35.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such sale.

SECTION 36.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Coffee County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 37.

That custody of the above-described property shall remain in the Department of Labor until the property is conveyed.

ARTICLE VII

SECTION 38.

That the State of Georgia is the owner of the above-described Columbia County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 39.

That the above-described 9.15 acre parcel of property may be conveyed by appropriate instrument to Columbia County for a consideration of $10.00, so long as the property is used for public purpose and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 40.

That the authorization in this resolution to convey the above-described real property shall expire three years after the date that this resolution becomes effective.

SECTION 41.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 42.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Columbia County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 43.

That custody of the above-described property shall remain in the Department of Technical and Adult Education until the property is conveyed.

ARTICLE VIII
SECTION 44.

That the State of Georgia is the owner of the above-described Forsyth County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 45.

That all or a portion of the above-described 0.90 of one acre parcel of property may be sold by competitive bid by the State of Georgia, acting by and through its State Properties Commission, for a consideration of not less than the fair market value as determined by the State Properties Commission to be in the best interest of the state; provided, however, that the above-described real property may be sold to a city, county, school board, or other local public entity, which shall include development authorities, for not less than the fair market value, as determined to be in the best interest of the State of Georgia by the State Properties Commission, without the necessity of competitive bid and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 46.

That the authorization in this resolution to sell the above-described real property shall expire three years after the date that this resolution becomes effective.

SECTION 47.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such sale.

SECTION 48.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Forsyth County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 49.

That custody of the above-described properties shall remain in the Georgia Forestry Commission until the property is conveyed.

ARTICLE IX
SECTION 50.

That the State of Georgia is the owner of the above-described Fulton County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 51.

That 2.42 acres of the above-described 4.23 acre parcel of property may be sold by the State of Georgia, acting by and through its State Properties Commission, to the Georgia Department of Transportation for a consideration of not less than the fair market value as determined to be in the best interest of the State of Georgia by the State Properties Commission, and that easements over 1.81 acres of the above-described 4.23 acre parcel of property may be sold by the State of Georgia, acting by and through its State Properties Commission, for a consideration of not less than the fair market as determined to be in the best interest of the State of Georgia by the State Properties Commission and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 52.

That the authorization in this resolution to sell the above-described real property shall expire three years after the date that this resolution becomes effective.

SECTION 53.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such sale.

SECTION 54.

That the deed or deeds of conveyance and easement or easements shall be recorded by the grantee in the Superior Court of Fulton County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 55.

That custody of the above-described properties shall remain in the Georgia World Congress Center until the property is conveyed.

ARTICLE X

SECTION 56.

That the State of Georgia is the owner of the above-described Hall County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 57.

That the above-described 1.56 acre parcel of property may be sold by competitive bid by the State of Georgia, acting by and through its State Properties Commission, for a consideration of not less than the fair market value as determined by the State Properties Commission to be in the best interest of the state; provided, however, that the above-described real property

may be sold to a city, county, school board, or other local public entity, which shall include development authorities, for not less than the fair market value, as determined to be in the best interest of the State of Georgia by the State Properties Commission, without the necessity of competitive bid and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 58.

Notwithstanding Code Section 45-12-92 of the O.C.G.A. or any other provision of law, the State Properties Commission may permit any cash considerations received from said disposition to be retained by the Department of Labor and applied by the department to its replacement needs.

SECTION 59.

That the authorization in this resolution to convey the above-described property shall expire three years after the date that this resolution becomes effective.

SECTION 60.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 61.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Hall County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 62.

That custody of the above-described properties shall remain in the Department of Labor until the property is conveyed.

ARTICLE XI

SECTION 63.

That the State of Georgia is the owner of the above-described McDuffie County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 64.

That the above-described 0.50 of one acre parcel of property may be conveyed to the City of Thomson or McDuffie County or both in exchange for an approximately 0.50 of one acre parcel of property approved by the Department of Public Safety and the State Properties Commission located at the Thomson-McDuffie Regional Airport owned by McDuffie

County or the City of Thomson or both and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 65.

That the authorization in this resolution to convey the above-described property shall expire three years after the date that this resolution becomes effective.

SECTION 66.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 67.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of McDuffie County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 68.

That custody of the above-described properties shall remain in the Department of Public Safety until the property is conveyed.

ARTICLE XII

SECTION 69.

That the State of Georgia is the owner of the above-described Pulaski County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 70.

That the above-described real property may be conveyed by appropriate instrument, by the State of Georgia acting by and through its State Properties Commission, to Pulaski County for a consideration of $10.00, so long as the property is used for public purpose, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 71.

That the authorization in this resolution to convey the above-described property shall expire three years after the date that this resolution becomes effective.

SECTION 72.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 73.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Pulaski County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 74.

That custody of the above-described property shall remain in the Department of Defense until the property is conveyed.

ARTICLE XIII

SECTION 75.

That the State of Georgia is the owner of the above-described Stephens County real property and that in all matters relating to the conveyance of real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 76.

That the above-described real property located in Stephens County may be sold by competitive bid for a consideration of not less than the fair market value of such property as determined to be in the best interest of the State of Georgia by the State Properties Commission; provided, however, that all or a portion of the above-described property may be sold to a city, county, school board, or other local public entity, which shall include development authorities, for not less than the fair market value, as determined to be in the best interest of the State of Georgia by the State Properties Commission, without the necessity of competitive bid, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia.

SECTION 77.

That the authorization in this resolution to convey the above-described property shall expire three years after the date that this resolution becomes effective.

SECTION 78.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 79.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Stephens County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 80.

That custody of the property will remain in the Department of Public Safety until the property is conveyed.

ARTICLE XIV

SECTION 81.

That the State of Georgia is the owner of the above-described Tattnall County real property interests and that in all matters relating to the conveyance of real property interests the State of Georgia is acting by and through its State Properties Commission.

SECTION 82.

That the above-described real property interests located in Tattnall County may conveyed to the City of Reidsville and the Reidsville Municipal Airport Authority in exchange for the conveyance of approximately two acres of suitable property, as determined by the State Properties Commission and the Department of Public Safety to be in the best interest of the State of Georgia, located at Reidsville Municipal Airport owned by the City of Reidsville or the Reidsville Municipal Airport Authority or both, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia.

SECTION 83.

That the authorization in this resolution to exchange the above-described properties and property interests shall expire three years after the date that this resolution becomes effective.

SECTION 84.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 85.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Tattnall County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 86.

That custody of the property will remain in the Department of Public Safety until the property is exchanged.

ARTICLE XV
SECTION 87.

That the State of Georgia is the owner of the above-described Treutlen County real property and that in all matters relating to the conveyance of real property interests the State of Georgia is acting by and through its State Properties Commission.

SECTION 88.

That the above-described real property located in Treutlen County may conveyed to Treutlen County for a consideration of not less than the fair market value, as determined by the State Properties Commission to be in the best interest of the State of Georgia, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia.

SECTION 89.

That the authorization in this resolution to convey the above-described properties and property interests shall expire three years after the date that this resolution becomes effective.

SECTION 90.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 91.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Treutlen County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 92.

That custody of the property will remain in the Department of Corrections until the property is conveyed.

ARTICLE XVI
SECTION 93.

That the State of Georgia is the owner of the above-described Troup County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 94.

That the above-described real property may be conveyed by appropriate instrument to the Oglethorpe Power Corporation by the State of Georgia, acting by and through the State Properties Commission in exchange for that certain parcel of property owned by Oglethorpe

Power Corporation as described on a plat of survey entitled "Webb Road 115/12KV Substation Property Plat" dated July 24, 1989 and prepared by Roland McCann, Georgia Registered Land Surveyor No. 1752 and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia.

SECTION 95.

That the authorization in this resolution to convey the above-described property to the Oglethorpe Power Corporation shall expire three years after the date that this resolution becomes effective.

SECTION 96.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 97.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Troup County and a recorded copy shall be forwarded to the State Properties Commission.

ARTICLE XVII

SECTION 98.

That the State of Georgia is the owner of the above-described Wayne County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 99.

That the above-described real property may be conveyed by appropriate instrument, by the State of Georgia acting by and through its State Properties Commission, to the Wayne County Hospital Authority for a consideration of $10.00, so long as the property is used for public purpose, and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 100.

That the authorization in this resolution to convey the above-described property shall expire three years after the date that this resolution becomes effective.

SECTION 101.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 102.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Wayne County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 103.

That custody of the above-described property shall remain in the Department of Defense until the property is conveyed.

ARTICLE XVIII

SECTION 104.

That the State of Georgia is the owner of the above-described Whitfield County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 105.

That the above-described real property may be conveyed by appropriate instrument to Virginia Crow by the State of Georgia, acting by and through the State Properties Commission for a consideration not less than the fair market value, as determined by the State Properties Commission to be in the best interest of the State of Georgia and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia.

SECTION 106.

That the authorization in this resolution to convey the above-described property to Virginia Crow shall expire three years after the date that this resolution becomes effective.

SECTION 107.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 108.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Whitfield County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 109.

That custody of the above-described property shall remain in the Georgia Forestry Commission until the property is conveyed to Virginia Crow.

ARTICLE XIX
SECTION 110.

That the State of Georgia is the owner of the above-described Whitfield County real property and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 111.

That the above-described real property may be conveyed by appropriate instrument to the City of Tunnel Hill by the State of Georgia, acting by and through the State Properties Commission for a consideration $10.00, so long as the property is used for public purpose and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia.

SECTION 112.

That the authorization in this resolution to convey the above-described property to the City of Tunnel Hill shall expire five years after the date that this resolution becomes effective.

SECTION 113.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance.

SECTION 114.

That the deed of conveyance shall be recorded by the grantee in the Superior Court of Whitfield County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 115.

That custody of the above-described property shall remain in the State Properties Commission until the property is conveyed to the City of Tunnel Hill.

ARTICLE XX
SECTION 116.

That all laws and parts of laws in conflict with this resolution are repealed.

Approved May 24, 2007.

LOCAL GOVERNMENT – PRIVATELY CONSTRUCTED WATER OR SEWAGE SYSTEMS; PROHIBIT REQUIRED TRANSFER.

No. 225 (House Bill No. 471).

AN ACT

To amend Chapter 80 of Title 36 of the Official Code of Georgia Annotated, relating to general provisions applicable to counties, municipal corporations, and other government entities, so as to prohibit local governments from requiring transfer of the ownership of privately constructed water or sewage systems under certain conditions; to provide for a sunset provision; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 80 of Title 36 of the Official Code of Georgia Annotated, relating to general provisions applicable to counties, municipal corporations, and other government entities, is amended by adding a new Code section to read as follows:

"36-80-21.

(a) Notwithstanding any other provision of law to the contrary, no municipal corporation, county, or local authority except those within the Metropolitan North Georgia Water Planning District area shall require the transfer of ownership of a privately constructed water or sewage system that is not to be connected to a publicly owned water or sewage system of said governmental entity; nor shall such governmental entity require such transfer of ownership as a condition for the approval or issuance of local permits if the privately constructed water or sewer system is owned and operated by a company issued a permit by the Environmental Protection Division of the Department of Natural Resources whose primary business is the management and operation of such systems.

(b) All publicly owned existing water or sewage systems with at least 200 active connections as of January 1, 2007, are exempt from the provisions of this Code section. The required transfer of ownership shall also be allowed if the new privately constructed water or sewage system, not including private septic systems or wells, is within a mile of a governmentally owned water or sewage system. The director of the Environmental Protection Division of the Department of Natural Resources may require connection and transfer of ownership of such systems for issues of public health and environmental quality.

(c) This Code section shall stand repealed on January 1, 2009."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 24, 2007.

LABOR – EMPLOYMENT SECURITY;
STATE-WIDE RESERVE RATIO;
RATE ADJUSTMENT.

No. 226 (House Bill No. 443).

AN ACT

To amend Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to employment security, so as to provide for changes to what shall be deemed "employment"; to extend suspension of adjustments based upon the State-wide Reserve Ratio; to provide for a reduced adjustment in contribution rates through a certain time period; to provide for a change in the weekly benefit amount over a certain period; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 8 of Title 34 of the Official Code of Georgia Annotated, relating to employment security, is amended in Code Section 34-8-35, relating to the term "employment," by revising subsection (f) and paragraph (17) of subsection (n) as follows:

"(f) Services performed by an individual for wages shall be deemed to be employment subject to this chapter unless and until it is shown that:

(1)(A) Such individual has been and will continue to be free from control or direction over the performance of such services, both under the individual's contract of service and in fact; and

(B) Such individual is customarily engaged in an independently established trade, occupation, profession, or business; or

(2) Such individual and the services performed for wages are the subject of an SS-8 determination by the Internal Revenue Service, which decided against employee status."

"(17) Services performed for a common carrier of property, persons, or property and persons by an individual consisting of the pickup, transportation, and delivery of property, persons, or property and persons; provided that:

(A) The individual is free to accept or reject assignments from the common carrier;

(B) Remuneration for the individual is on the basis of commissions, trips, or deliveries accomplished;

(C) Such individual personally provides the vehicle used in the pickup, transportation, and delivery of the property, persons, or property and persons;

(D) Such individual has a written contract with the common carrier;

(E) The written contract states expressly and prominently that the individual knows:

(i) Of the responsibility to pay estimated social security taxes and state and federal income taxes;

(ii) That the social security tax the individual must pay is higher than the social security tax the individual would pay if he or she were an employee; and

(iii) That the work is not covered by the unemployment compensation laws of Georgia; and

(F) The written contract does not prohibit such individual from the pickup, transportation, or delivery of property, persons, or property and persons for more than one common carrier or any other person or entity; or"

SECTION 2.

Said chapter is further amended in Code Section 34-8-156, relating to the State-wide Reserve Ratio for unemployment compensation, by revising subparagraph (B) of paragraph (4) of subsection (d), as follows:

"(B) Except for any year or portion of a year during which the provisions of paragraph (1) of subsection (f) of Code Section 34-8-155 apply, when the State-wide Reserve Ratio, as calculated above, is less than 1.7 percent, there shall be an overall increase in the rate, as of the computation date, for each employer whose rate is computed under a rate table in Code Section 34-8-155 in accordance with the following table:

If the State-wide Reserve Ratio:

Equals or Exceeds	But Is Less Than	Overall Increase
1.5 percent	1.7 percent	25 percent
1.25 percent	1.5 percent	50 percent
0.75 percent	1.25 percent	75 percent

Under 0.75 percent	100 percent

provided, however, that for the periods of January 1 through December 31, 2004; January 1 through December 31, 2005; and January 1 through December 31, 2006, the overall increase in the rate required under this subparagraph shall be suspended and the provisions of this subparagraph shall be null and void, except in the event the State-wide Reserve Ratio, as calculated above, is less than 1.00 percent on the computation date with respect to rates applicable to calendar year 2004, 2005, or 2006, then for each such year the Commissioner of Labor shall have the option of imposing an increase in the overall rate of up to 35 percent, as of the computation date, for each employer whose rate is computed under a rate table in Code Section 34-8-155; and provided, further, that for the period of January 1 through December 31, 2007, January 1 through December 31, 2008, and January 1 through December 31, 2009, the overall increase in the rate required under this subparagraph shall be suspended and the provisions of this subparagraph shall be null and void, except in the event the State-wide Reserve Ratio, as calculated above, is less than 1.25 percent on the computation date with respect to rates applicable to calendar year 2007, 2008, or 2009, then for each such year the Commissioner of Labor shall have the option of imposing an increase in the overall rate of up to 35 percent, as of the computation date, for each employer whose rate is computed under a rate table in Code Section 34-8-155."

SECTION 3.

Said chapter is further amended in Code Section 34-8-193, relating to the determination of the weekly benefit amount, by revising subsections (a), (b), and (c), as follows:

"(a) The weekly benefit amount of an individual's claim shall be that amount computed by dividing the two highest quarters of wages paid in the base period by 42. Any fraction of a dollar shall then be disregarded. Wages must have been paid in at least two quarters of the base period and total wages in the base period must equal or exceed 150 percent of the highest quarter base period wages. For claims that fail to establish entitlement due to failure to meet the 150 percent requirement, an alternative computation shall be made. In such event, the weekly benefit amount shall be computed by dividing the highest single quarter of base period wages paid by 21. Any fraction of a dollar shall then be disregarded. Under this alternative computation, wages must have been paid in at least two quarters of the base period and total base period wages must equal or exceed 40 times the weekly benefit amount. Regardless of the method of computation used, wages must have been paid for insured work, as defined in Code Section 34-8-41.

(b) Weekly benefit amount entitlement as computed in this Code section shall be no less than $27.00 per week for benefit years beginning on or after July 1, 1983; provided, however, that for benefit years beginning on or after July 1, 1987, when the weekly benefit amount, as computed, would be more than $26.00 but less than $37.00, the individual's weekly benefit amount will be $37.00, and no weekly benefit amount shall be established

for less than $37.00; provided, further, that for benefit years beginning on or after July 1, 1997, when the weekly benefit amount, as computed, would be more than $26.00 but less than $39.00, the individual's weekly benefit amount will be $39.00, and no weekly benefit amount shall be established for less than $39.00; provided, further, that for benefit years beginning on or after July 1, 2002, when the weekly benefit amount, as computed, would be more than $26.00 but less than $40.00, the individual's weekly benefit amount will be $40.00, and no weekly benefit amount shall be established for less than $40.00; provided, further, that for benefit years beginning on or after July 1, 2005, when the weekly benefit amount, as computed, would be more than $26.00 but less than $42.00, the individual's weekly benefit amount will be $42.00, and no weekly benefit amount shall be established for less than $42.00; provided, further, that for benefit years beginning on or after July 1, 2007, when the weekly benefit amount, as computed, would be more than $26.00 but less than $44.00, the individual's weekly benefit amount will be $44.00, and no weekly benefit amount shall be established for less than $44.00.

(c) Weekly benefit amount entitlement as computed in this Code section shall not exceed these amounts for the applicable time period:

(1) For claims filed on or after July 1, 1990, but before July 1, 1994, the maximum weekly benefit amount shall not exceed $185.00;

(2) For claims filed on or after July 1, 1994, but before July 1, 1995, the maximum weekly benefit amount shall not exceed $195.00;

(3) For claims filed on or after July 1, 1995, but before July 1, 1996, the maximum weekly benefit amount shall not exceed $205.00;

(4) For claims filed on or after July 1, 1996, but before July 1, 1997, the maximum weekly benefit amount shall not exceed $215.00;

(5) For claims filed on or after July 1, 1997, but before July 1, 1998, the maximum weekly benefit amount shall not exceed $224.00;

(6) For claims filed on or after July 1, 1998, but before July 1, 1999, the maximum weekly benefit amount shall not exceed $244.00;

(7) For claims filed on or after July 1, 1999, but before July 1, 2000, the maximum weekly benefit amount shall not exceed $264.00;

(8) For claims filed on or after July 1, 2000, but before July 1, 2001, the maximum weekly benefit amount shall not exceed $274.00;

(9) For claims filed on or after July 1, 2001, but before July 1, 2002, the maximum weekly benefit amount shall not exceed $284.00;

(10) For claims filed on or after July 1, 2002, but before July 1, 2003, the maximum weekly benefit amount shall not exceed $295.00;

(11) For claims filed on or after July 1, 2003, but before July 1, 2005, the maximum weekly benefit amount shall not exceed $300.00;

(12) For claims filed on or after July 1, 2005, but before July 1, 2006, the maximum weekly benefit amount shall not exceed $310.00; and

(13) For claims filed on or after July 1, 2006, but before July 1, 2008, the maximum weekly benefit amount shall not exceed $320.00; and
(14) For claims filed on or after July 1, 2008, the maximum weekly benefit amount shall not exceed $330.00."

SECTION 4.

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

Approved May 24, 2007.

COMMERCE – PROFESSIONS – CEMETERY AND FUNERAL SERVICES; DEFINITIONS; STATE BOARD OF CEMETERIANS.

No. 227 (House Bill No. 391).

AN ACT

To amend Code Section 10-14-3 of the Official Code of Georgia Annotated, relating to definitions relative to cemetery and funeral services, so as to redefine certain terms; to amend Code Section 43-8B-5 of the Official Code of Georgia Annotated, relating to the State Board of Cemeterians and the number, terms, appointments, vacancies, and removal of members, so as to change certain provisions relating to qualifications of board members; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 10-14-3 of the Official Code of Georgia Annotated, relating to definitions relative to cemetery and funeral services, is amended by revising paragraphs (3), (14), and (21), respectively, as follows:

"(3) 'Burial merchandise,' 'funeral merchandise,' or 'merchandise' means any personal property offered or sold by any person for use in connection with the final disposition, memorialization, interment, entombment, or inurnment of human remains."

"(14) 'Entombment' means the disposition of a dead human body in a mausoleum, including without limitation a crypt, private mausoleum, or any other permanent above-ground structure not used for inurnment, but shall not include the opening and closing of a grave space, crypt, or niche or the installation of a vault."

"(21) 'Inurnment' means the disposition of the cremated remains of a deceased human being in any fashion, including without limitation in a columbarium niche, cremorial, cremation bench, cremation rock, urn, or other container but shall not include the opening and closing of a grave space, crypt, or niche or the installation of a vault."

SECTION 2.

Code Section 43-8B-5 of the Official Code of Georgia Annotated, relating to the State Board of Cemetarians and the number, terms, appointments, vacancies, and removal of members, is amended by revising subsection (a) as follows:

"(a) The board shall consist of six members who shall be practicing cemeterians with a minimum of five years of experience and one member who shall have no connection whatsoever with the cemetery profession but who shall have a recognized interest in consumer affairs and in consumer protection concerns."

SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 4.

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

Approved May 24, 2007.

LEASE OF STATE OWNED REAL PROPERTY.

No. 228 (House Resolution No. 370).

A RESOLUTION

Authorizing the leasing of certain state owned real property in Bibb County, Georgia; authorizing the leasing of certain state owned real property in Cobb County, Georgia; authorizing the leasing of certain state owned real property located in Dougherty County, Georgia; authorizing the leasing of certain state owned real property located in Mitchell County, Georgia; authorizing the leasing of certain state owned real property in Troup County, Georgia; authorizing the leasing of certain state owned property in Monroe County, Georgia; to repeal conflicting laws; and for other purposes.

WHEREAS:

(1) The state of Georgia is the owner of a certain parcel of real property located in Bibb County, Georgia;

(2) Said real property is all that tract or parcel of land lying and being on the campus of the headquarters of the Georgia Forestry Commission in Bibb County and more particularly being the fire suppression laboratory in what was formerly the United States Forest Service Building which has been conveyed to the State of Georgia, said fire suppression laboratory contains approximately 1,500 square feet and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval; and

(3) The above-described property is a portion of the campus of the headquarters of the Georgia Forestry Commission;

(4) Nanomist Systems, LLC has rented the above-described fire suppression laboratory for three years and the State Properties Commission can rent state property for no longer than three years;

(5) Nanomist Systems, LLC is desirous of leasing the above-described property for five years; and

WHEREAS:

(1) The State of Georgia is the owner of certain parcels of real property located in Cobb County, Georgia;

(2) Said real properties are all those tracts or parcels of land lying and being in land lot No. 1218 of the 16th land district 2nd section of Cobb County consisting of three parcels containing a total of approximately 0.77 of one acre as described on those certain lease agreements between the State of Georgia and the City of Marietta and being recorded in the records of the State Properties Commission as "real property record nos." 006388 and 005745 and being on file in the offices of the State Properties Commission and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) The above-described properties are a portion of the Western and Atlantic railroad right of way;

(4) The City of Marietta has leased the above-described property from the State of Georgia since 1973;

(5) The City of Marietta is desirous of leasing the above-described property for an additional ten years; and

WHEREAS:

(1) The State of Georgia is the owner of a certain parcel of real property located in Dougherty County, Georgia;

(2) Said real property is all that tract or parcel of land lying and being in land lots No. 361 of the 1st land district of Dougherty County containing a total of approximately

0.981 of one acre as shown on a plat of survey entitled "Albany Technical College of Fire Station No. 5" dated August 6, 2004 and revised January 20, 2006, prepared by William Clay Miller Georgia Registered Land Surveyor and being on file in the offices of the State Properties Commission and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) The above-described property is a portion of the campus of Albany Technical College;

(4) The Albany Technical College Foundation is desirous of leasing the above-described property in order to fund approximately $1,500,000.00 in renovation and construction in an existing fire station on the property;

(5) Upon completion of the above-mentioned renovation and construction, the fire station will be used by Albany Technical College as a First Responder Training Center;

(6) The Board of Technical and Adult Education, at its meeting of December 7, 2006, approved of the leasing of the above-described property to the Albany Technical College Foundation; and

WHEREAS:

(1) The State of Georgia is the owner of a certain parcel of real property located in Mitchell County, Georgia;

(2) The building and shed located at the State Farmers Market in the City of Pelham, Mitchell County, Georgia, known as the most northern shed in said market site is currently leased to the Pelham Development Corporation pursuant to a resolution approved August 30, 2000, by the State Properties Commission;

(3) Said real property is all that tract or parcel of land lying and being in land lots Nos. 267 and 268 of the 10th land district of Mitchell County containing a total of approximately 3.42 acres as shown as tract 1 on a plat of survey entitled "The State of Georgia - Farmers Market Property in the City of Pelham" dated December 23, 1996 and revised January 27, 1997, prepared by Leroy R. Hall Georgia Registered Land Surveyor No. 2504 and being on file in the offices of the State Properties Commission and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(4) The above-described property has been leased to the Pelham Development Corporation since 1962;

(5) The Pelham Development Corporation is desirous of continuing to lease the above-described property for an additional five years; and

WHEREAS:

(1) The State of Georgia is the owner of a certain parcel of real property located in Troup County, Georgia;

(2) Said real property is all that tract or parcel of land lying and being in land lots No. 160, 161, 186 and 187 of the 5th land district of Troup County containing a total of approximately 51.9 acres as shown on a plat of survey entitled "DTAE Department of Economic Development" dated July 14, 2006 and revised July 19, 2006, prepared by James Stothard Georgia Registered Land Surveyor No. 2321 and being on file in the Offices of the State Properties Commission and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) The above-described property is a portion of the property in the custody of the Department of Economic Development dedicated to the development of an automobile assembly plant in Troup County;

(4) The OneGeorgia Authority has agreed to fund the construction of a training center in conjunction with the above-mentioned development of an automobile assembly plant;

(5) Upon completion of the above-mentioned training center, the OneGeorgia Authority intends to contract with the Department of Technical and Adult Education to operate the facility; and

WHEREAS:

(1) The State of Georgia is the owner of a certain parcel of real property located in Monroe County, Georgia;

(2) Said real property is all that tract or parcel of land lying and being in land lots No. 182 and 183 of the 6th land district of Monroe County containing a total of approximately 42.08 acres as shown on a plat of survey entitled "A Boundary & Partitioning survey for Development Authority of Monroe County, Georgia" dated January 6, 1995 and revised October 18, 2002, prepared by Hugh W. Mercer Georgia Registered Land Surveyor No. 1890 and being on file in the Offices of the State Properties Commission and may be more particularly described on a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval;

(3) The above-described property is the former location of Tift College;

(4) The Development Authority of Monroe County, Georgia is desirous of leasing a portion of the above-described property in order to construct an office facility for use by employees of the State of Georgia.

NOW, THEREFORE, BE IT RESOLVED AND ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I
SECTION 1.

That the State of Georgia is the owner of the above-described Bibb County real property and that in all matters relating to the leasing of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 2.

That the State of Georgia, acting by and through the State Properties Commission, is authorized to lease the above-described real property to Nanomist Systems, LLC for a period of five years for a consideration of $7,500.00 per year, and such further terms and conditions as determined by the State Properties Commission to be in the best interest of the State of Georgia.

SECTION 3.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such lease.

SECTION 4.

That the lease shall be recorded by the lessee in the Superior Court of Bibb County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 5.

That the authorization to lease the above-described property to Nanomist Systems, LLC shall expire three years after the date that this resolution becomes effective.

ARTICLE II
SECTION 6.

That the State of Georgia is the owner of the above-described Cobb County real property and that in all matters relating to the leasing of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 7.

That the State of Georgia, acting by and through the State Properties Commission, is authorized to lease the above-described real property to the City of Marietta for a period of ten years for a consideration of $350.00 per year, and such further terms and conditions as determined by the State Properties Commission to be in the best interest of the State of Georgia.

SECTION 8.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such lease.

SECTION 9.

That the lease shall be recorded by the lessee in the Superior Court of Cobb County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 10.

That the authorization to lease the above-described property to the City of Marietta shall expire three years after the date that this resolution becomes effective.

ARTICLE III

SECTION 11.

That the State of Georgia is the owner of the above-described Dougherty County real property and that in all matters relating to the leasing of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 12.

That the State of Georgia, acting by and through the State Properties Commission, is authorized to lease the above-described real property to the Albany Technical College Foundation for a period of 20 years for a consideration of $10.00, as long as the property is leased for public purpose, and such further terms and conditions as determined by the State Properties Commission to be in the best interest of the State of Georgia.

SECTION 13.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such lease.

SECTION 14.

That the lease shall be recorded by the lessee in the Superior Court of Dougherty County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 15.

That the authorization to lease the above-described property to the Albany Technical College Foundation shall expire three years after the date that this resolution becomes effective.

ARTICLE IV
SECTION 16.

That the State of Georgia is the owner of the above-described Mitchell County real property and that in all matters relating to the leasing of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 17.

That the State of Georgia, acting by and through the State Properties Commission, is authorized to lease the above-described real property to the Pelham Development Corporation for a period of five years for a consideration of $1,000.00 per month, and such other terms and conditions as determined by the State Properties Commission to be in the best interest of the State of Georgia.

SECTION 18.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such lease.

SECTION 19.

That the lease shall be recorded by the lessee in the Superior Court of Mitchell County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 20.

That the authorization to lease the above-described property to the Pelham Development Authority shall expire three years after the date that this resolution becomes effective.

ARTICLE V
SECTION 21.

That the State of Georgia is the owner of the above-described Troup County real property and that in all matters relating to the leasing of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 22.

That the State of Georgia, acting by and through the State Properties Commission, is authorized to lease the above-described real property to the OneGeorgia Authority for a period of 20 years for a consideration of $10.00, and such further terms and conditions as determined by the State Properties Commission to be in the best interest of the State of Georgia.

SECTION 23.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such lease.

SECTION 24.

That the lease shall be recorded by the lessee in the Superior Court of Troup County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 25.

That the authorization to lease the above-described property to the OneGeorgia Authority shall expire three years after the date that this resolution becomes effective.

ARTICLE VI

SECTION 26.

That the State of Georgia is the owner of the above-described Monroe County real property and that in all matters relating to the leasing of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 27.

That the State of Georgia, acting by and through the State Properties Commission, is authorized to lease all or a portion of the above-described real property to the Development Authority of Monroe County, Georgia, for a period of 20 years for a consideration of $10.00, and such further terms and conditions as determined by the State Properties Commission to be in the best interest of the State of Georgia.

SECTION 28.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such lease.

SECTION 29.

That the lease shall be recorded by the lessee in the Superior Court of Monroe County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 30.

That the authorization to lease the above-described property to the Development Authority of Monroe County, Georgia shall expire five years after the date that this resolution becomes effective.

ARTICLE VII
SECTION 31.

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

Approved May 24, 2007.

JOINT STUDY COMMITTEE ON FULTON COUNTY.

No. 229 (House Resolution No. 351).

A RESOLUTION

Creating the Joint Study Committee on Fulton County; and for other purposes.

WHEREAS, the Fulton County Blue Ribbon Commission on Fulton County Governance formulated suggested reforms for the operations of Fulton County in order to make operations efficient and responsive to the residents of Fulton County; and

WHEREAS, the Fulton County Blue Ribbon Commission specifically recommended changes to the size and composition of the Fulton County Commission; and

WHEREAS, the Fulton County Blue Ribbon Commission suggested enhancement of the authority of the chairperson of the Fulton County Commission; and

WHEREAS, the Fulton County Blue Ribbon Commission recommended that reforms were needed with regard to the operations of the sheriff's office, superior court clerk's office, and general operations and configuration of the Fulton County justice system; and

WHEREAS, the Fulton County Blue Ribbon Commission proposed reforms regarding the Fulton County library system; and

WHEREAS, the Fulton County Blue Ribbon Commission suggested reforms regarding Fulton County health and human services; and

WHEREAS, the Fulton County Blue Ribbon Commission commended reformation of the Fulton County transportation system; and

WHEREAS, a separate study is currently being conducted on the division of Fulton County into more than one county.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that there is created the Joint Study Committee on Fulton County. The committee shall consist of 16 members; eight members shall be appointed by the Lieutenant Governor and eight members shall be appointed by the Speaker of the House of Representatives. The Lieutenant Governor and the Speaker of the House each shall designate a member of the committee as cochairperson of the committee. The chairpersons shall call all meetings of the committee.

BE IT FURTHER RESOLVED that the committee shall undertake a study of the conditions, needs, issues, and uses of the Fulton County government structure and operations and the problems found by the Fulton County Blue Ribbon Commission or related thereto and recommend any actions or legislation which the committee deems necessary or appropriate. The committee shall seek the advice and opinions of private, institutional, and law enforcement experts and officials. The committee may conduct such meetings at such places and at such times as it may deem necessary or convenient to enable it to exercise fully its powers, perform its duties, and accomplish the objectives and purposes of this resolution. In the event the committee makes a report of its findings and recommendations, with suggestions for proposed legislation, if any, such report shall be made on or before the convening of the 2008 session of the General Assembly, at which time the committee shall stand abolished.

Approved May 24, 2007.

EVIDENCE – DNA ANALYSIS OF PROBATED OFFENDERS.

No. 230 (House Bill No. 314).

AN ACT

To amend Code Section 24-4-60 of the Official Code of Georgia Annotated, relating to requirement for DNA analysis of blood of persons convicted of certain sex offenses or convicted of a felony and incarcerated in a state correctional facility, so as to provide for DNA analysis of persons convicted of certain felonies and sexual offenses who are placed on probation; to provide for an effective date; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 24-4-60 of the Official Code of Georgia Annotated, relating to requirement for DNA analysis of blood of persons convicted of certain sex offenses or convicted of a felony and incarcerated in a state correctional facility, is revised as follows:

"24-4-60.

(a) As used in subsection (b) of this Code section, the term 'state correctional facility' means a penal institution under the jurisdiction of the Department of Corrections, including inmate work camps and inmate boot camps; provided, however, that such term shall not include a probation detention center, probation diversion center, or probation boot camp under the jurisdiction of the Department of Corrections.

(b) Any person convicted of a criminal offense defined in Code Section 16-6-1, relating to the offense of rape; Code Section 16-6-2, relating to the offense of sodomy or aggravated sodomy; Code Section 16-6-3, relating to the offense of statutory rape; Code Section 16-6-4, relating to the offense of child molestation or aggravated child molestation; Code Section 16-6-5, relating to the offense of enticing a child for indecent purposes; Code Section 16-6-5.1, relating to the offense of sexual assault against persons in custody, sexual assault against a person detained or a patient in a hospital or other institution, or sexual assault by a practitioner of psychotherapy against a patient; Code Section 16-6-6, relating to the offense of bestiality; Code Section 16-6-7, relating to the offense of necrophilia; or Code Section 16-6-22, relating to the offense of incest, shall have a sample of his or her blood, an oral swab, or a sample obtained from a noninvasive procedure taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. In addition, on and after July 1, 2000, any person convicted of a felony and incarcerated in a state correctional facility shall at the time of entering the prison system have a sample of his or her blood, an oral swab, or a sample obtained from a noninvasive procedure taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. The provisions and requirements of this Code section shall also apply to any person who has been convicted of a felony prior to July 1, 2000, and who currently is incarcerated in a state correctional facility in this state for such offense. The provisions and requirements of this Code section shall also apply to any person who has been convicted of a felony in this state on or after July 1, 2000, and who is incarcerated in a private correctional facility in this state for such offense pursuant to a contract with the Department of Corrections upon entering the facility, and for any person convicted of a felony prior to July 1, 2000, and who is incarcerated in a private correctional facility in this state pursuant to contract with the Department of Corrections. The analysis shall be performed by the Division of Forensic Sciences of the Georgia Bureau of Investigation. The division shall be authorized to contract with individuals or organizations for services to perform such analysis. The identification characteristics of the profile resulting from the DNA analysis shall be stored and maintained by the bureau in a DNA data bank and shall be made available only as provided in Code Section 24-4-63.

(c)(1) On and after July 1, 2007, any person who is placed on probation shall have a sample of his or her blood, an oral swab, or a sample obtained from a noninvasive procedure taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person if such person is convicted of a felony violation of any of the following:

(A) Chapter 5 of Title 16, relating to crimes against persons;

(B) Code Section 16-6-1, relating to the offense of rape;

(C) Code Section 16-6-2, relating to the offense of sodomy or aggravated sodomy;

(D) Code Section 16-6-3, relating to the offense of statutory rape;

(E) Code Section 16-6-4, relating to the offense of child molestation or aggravated child molestation;

(F) Code Section 16-6-5, relating to the offense of enticing a child for indecent purposes;

(G) Code Section 16-6-5.1, relating to the offense of sexual assault against persons in custody, sexual assault against a person detained or a patient in a hospital or other institution, or sexual assault by a practitioner of psychotherapy against a patient;

(H) Code Section 16-6-6, relating to the offense of bestiality;

(I) Code Section 16-6-7, relating to the offense of necrophilia;

(J) Code Section 16-6-22, relating to the offense of incest;

(K) Code Section 16-7-1, relating to the offense of burglary;

(L) Code Section 16-8-40, relating to the offense of robbery;

(M) Code Section 16-8-41, relating to the offense of armed robbery;

(N) Code Section 16-10-23, relating to the offense of impersonating an officer;

(O) Code Section 16-10-24, relating to the offense of obstruction of an officer;

(P) Article 4 of Chapter 11 of Title 16, relating to dangerous instrumentalities and practices; and

(Q) Chapter 13 of Title 16, relating to controlled substances.

(2) The analysis shall be performed by the Division of Forensic Sciences of the Georgia Bureau of Investigation. The division shall be authorized to contract with individuals or organizations for services to perform such analysis. The identification characteristics of the profile resulting from the DNA analysis shall be stored and maintained by the bureau in a DNA data bank and shall be made available only as provided in Code Section 24-4-63. The Department of Corrections shall be responsible for collecting such sample."

SECTION 2.

This Act shall become effective on July 1, 2007.

SECTION 3.

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

Approved May 24, 2007.

COURTS -- GUARDIAN AD LITEM; SPECIAL ADVOCATE.

No. 231 (House Bill No. 270).

AN ACT

To amend Part 1 of Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions in juvenile proceedings, so as to change provisions relating to the appointment of a guardian ad litem; to provide for definitions; to change provisions relating to a court appointed special advocate including appointment, training, role, and responsibilities; to provide for notice of juvenile court proceedings to a court appointed special advocate; to provide for a court appointed special advocate's access to records under certain circumstances; to provide for confidentiality of certain information; to provide for a penalty for disclosing confidential information; to provide for immunity for a court appointed special advocate; to provide for removal of a court appointed special advocate; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1 of Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions in juvenile proceedings, is amended by revising subsection (a) of Code Section 15-11-9, relating to appointment of a guardian ad litem, as follows:

"(a) As used in this Code section, the term 'court appointed special advocate' shall have the same meaning as set forth in Code Section 15-11-9.1."

SECTION 2.

Said part is further amended by adding a new Code section to read as follows:

"15-11-9.1.

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

(1) 'Court appointed special advocate' or 'CASA' means a community volunteer who:

(A) Has been screened and trained regarding deprivation, child development, and juvenile court procedures;

(B) Has met all of the requirements of an affiliate court appointed special advocate program;

(C) Is being actively supervised by an affiliate court appointed special advocate program; and

(D) Has been appointed as a lay guardian ad litem by the court in a juvenile court deprivation proceeding.

(2) 'Affiliate court appointed special advocate program' means a locally-operated program operating with the approval of the local juvenile court which screens, trains, and supervises volunteers to advocate for the best interest of abused and neglected children in deprivation proceedings.

(b)(1) Before executing duties as a CASA, and upon completion of all the requirements of an affiliate court appointed special advocate program, a CASA shall be sworn in by a judge of the juvenile court in the court or circuit in which he or she wishes to serve. A CASA shall not be assigned a case prior to being sworn in by a juvenile court judge as set forth in this paragraph.

(2) If a juvenile court judge determines that a child involved in a deprivation proceeding needs a CASA, the judge shall have the authority to appoint a CASA, and in such circumstance shall sign an order appointing a CASA at the earliest possible stage of the proceedings. Such order shall impose on a CASA all the duties, rights, and responsibilities set forth in this Code section.

(c) The role of a CASA in juvenile court deprivation proceedings shall be to advocate for the best interests of the child.

(d) In all cases to which a CASA is assigned, except as ordered by the judge, a CASA shall:

(1) Conduct an independent assessment to determine the facts and circumstances surrounding the case;

(2) Maintain regular and sufficient in-person contact with the child;

(3) Submit written reports to the court regarding the child's best interests;

(4) Advocate for timely court hearings to obtain permanency for the child;

(5) Request judicial citizen review panel or judicial review of the case;

(6) Collaborate with the child's attorney, if any;

(7) Attend all court hearings and other proceedings to advocate for the child's best interests;

(8) Monitor compliance with the case plan and all court orders; and

(9) Review all court related documents.

(e) As a lay guardian ad litem, a CASA shall not be required to:

(1) Engage in activities which could reasonably be construed as the practice of law; or

(2) Obtain legal counsel or other professional services for a child.

(f)(1) Except as provided in Article 5 of this chapter, the 'Georgia Child Advocate for the Protection of Children Act,' a CASA shall be notified of all court hearings, judicial reviews, judicial citizen review panels, and other significant changes of circumstances of the child's case to which the CASA has been appointed to the same extent and in the same manner as the parties to the case are notified of such matters.

(2) A CASA shall be notified of the formulation of any case plan of the child's case to which the CASA has been appointed and may be given the opportunity to be heard by the court about such plans.

(g) Upon presentation of an order appointing a CASA as a guardian ad litem, such CASA shall have access to all records and information relevant to the child's case to which such CASA has been appointed when such records and information are not otherwise protected from disclosure pursuant to Code Section 19-7-5. Such records and information shall not include records and information provided under Article 5 of this chapter, the 'Georgia Advocate for the Protection of Children Act,' or provided under Chapter 4A of Title 49. The CASA's right to access such records shall be as otherwise authorized by law.

(h)(1) All records and information acquired, reviewed, or produced by a CASA during the course of his or her appointment shall be deemed confidential and shall not be disclosed except as ordered by the court.

(2) Except as provided in Code Section 49-5-41, any CASA who discloses confidential information obtained during the course of his or her appointment shall be guilty of a misdemeanor. CASA's shall maintain all information and records regarding mental health, developmental disability, and substance abuse according to the confidentiality requirements contained in Code Section 37-3-166, 37-4-125, or 37-7-166, as applicable.

(i) Any CASA authorized and acting in good faith, in the absence of fraud or malice, and in accordance with the duties required by this Code section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of taking or failing to take any action pursuant to this Code section. This Code section shall not be construed as imposing any additional duty on a CASA which is not already otherwise imposed by law.

(j)(1) The court may remove a CASA from a case upon finding that the CASA has acted in a manner contrary to the child's best interest, or if the court otherwise deems continued service as unwanted or unnecessary.

(2) The court may discharge a CASA for nonparticipation in a case or upon finding that the CASA has acted in a manner contrary to the mission and purpose of the affiliate court appointed special advocate program."

SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 4.

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

Approved May 24, 2007.

LOCAL GOVERNMENT – IMPACT FEES.

No. 232 (House Bill No. 232).

AN ACT

To amend Chapter 71 of Title 36 of the Official Code of Georgia Annotated, relating to the "Georgia Development Impact Fee Act," so as to change definitions; to increase community participation in development impact fee advisory committees; to provide for the expenditure of impact fees under certain circumstances; to change certain provisions relating to deposit and expenditure of fees and an annual report; to correct cross-references; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 71 of Title 36 of the Official Code of Georgia Annotated, relating to the "Georgia Development Impact Fee Act," is amended in Code Section 36-71-2, relating to definitions, by revising paragraphs (10.1) through (19) as follows:

"(11) 'Governmental entity' means any water authority, water and sewer authority, or water or waste-water authority created by or pursuant to an Act of the General Assembly of Georgia.

(12) 'Level of service' means a measure of the relationship between service capacity and service demand for public facilities in terms of demand to capacity ratios, the comfort and convenience of use or service of public facilities, or both.

(13) 'Present value' means the current value of past, present, or future payments, contributions or dedications of goods, services, materials, construction, or money.

(14) 'Project' means a particular development on an identified parcel of land.

(15) 'Project improvements' means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project and are not system improvements. The character of the improvement shall control a determination of whether an improvement is a project improvement or system improvement and the physical location of the improvement on site or off site shall not be considered determinative of whether an improvement is a project improvement or a system improvement. If an improvement or facility provides or will provide more than incidental service or facilities capacity to persons other than users or occupants of a particular project, the improvement or facility is a system improvement and shall not be considered a project improvement. No improvement or facility included in a plan for public facilities

approved by the governing body of the municipality or county shall be considered a project improvement.

(16) 'Proportionate share' means that portion of the cost of system improvements which is reasonably related to the service demands and needs of the project within the defined service area.

(17) 'Public facilities' means:

(A) Water supply production, treatment, and distribution facilities;

(B) Waste-water collection, treatment, and disposal facilities;

(C) Roads, streets, and bridges, including rights of way, traffic signals, landscaping, and any local components of state or federal highways;

(D) Storm-water collection, retention, detention, treatment, and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements;

(E) Parks, open space, and recreation areas and related facilities;

(F) Public safety facilities, including police, fire, emergency medical, and rescue facilities; and

(G) Libraries and related facilities.

(18) 'Service area' means a geographic area defined by a municipality, county, or intergovernmental agreement in which a defined set of public facilities provide service to development within the area. Service areas shall be designated on the basis of sound planning or engineering principles or both.

(19) 'System improvement costs' means costs incurred to provide additional public facilities capacity needed to serve new growth and development for planning, design and construction, land acquisition, land improvement, design and engineering related thereto, including the cost of constructing or reconstructing system improvements or facility expansions, including but not limited to the construction contract price, surveying and engineering fees, related land acquisition costs (including land purchases, court awards and costs, attorneys' fees, and expert witness fees), and expenses incurred for qualified staff or any qualified engineer, planner, architect, landscape architect, or financial consultant for preparing or updating the capital improvement element, and administrative costs, provided that such administrative costs shall not exceed 3 percent of the total amount of the costs. Projected interest charges and other finance costs may be included if the impact fees are to be used for the payment of principal and interest on bonds, notes, or other financial obligations issued by or on behalf of the municipality or county to finance the capital improvements element but such costs do not include routine and periodic maintenance expenditures, personnel training, and other operating costs.

(20) 'System improvements' means capital improvements that are public facilities and are designed to provide service to the community at large, in contrast to 'project improvements.'"

SECTION 2.

Said chapter is further amended in Code Section 36-71-4, relating to calculation of fees, by revising subsection (d) as follows:

"(d) A municipal or county development impact fee ordinance shall provide that development impact fees shall be collected not earlier in the development process than the issuance of a building permit authorizing construction of a building or structure; provided, however, that development impact fees for public facilities described in subparagraph (D) of paragraph(17) of Code Section 36-71-2 may be collected at the time of a development approval that authorizes site construction or improvement which requires public facilities described in subparagraph (D) of paragraph(17) of Code Section 36-71-2."

SECTION 3.

Said chapter is further amended in Code Section 36-71-5, relating to hearings on proposed fee ordinances, by revising subsection (b) as follows:

"(b) Such committee shall be composed of not less than five nor more than ten members appointed by the governing authority of the municipality or county and at least 50 percent of the membership shall be representatives from the development, building, or real estate industries. An existing planning commission or other existing committee that meets these requirements may serve as the Development Impact Fee Advisory Committee."

SECTION 4.

Said chapter is further amended by revising Code Section 36-71-8, relating to deposit and expenditure of fees and an annual report, as follows:

"36-71-8.

(a) An ordinance imposing development impact fees shall provide that all development impact fee funds shall be maintained in one or more interest-bearing accounts. Accounting records shall be maintained for each category of system improvements and the service area in which the fees are collected. Interest earned on development impact fees shall be considered funds of the account on which it is earned and shall be subject to all restrictions placed on the use of development impact fees under the provisions of this chapter. The accounting records shall include the following information:

(1) The accounting records to be maintained shall specify the address of each property which paid development impact fees, the amount of fees paid in each category in which fees were collected, and the date that such fees were paid; and

(2) As to any exemptions granted, the accounting records to be maintained shall specify the address of each property for which exemptions were granted, the reason for which such exemption was granted, and the revenue source from which the exempt development's proportionate share of the system improvements is to be paid.

(b) Expenditures of development impact fees shall be made only for the category of system improvements and in the service area for which the development impact fee was imposed

as shown by the capital improvements element and as authorized by this chapter. Development impact fees shall not be used to pay for any purpose that does not involve system improvements that create additional service available to serve new growth and development.

(c)(1) Development impact fees, collected for roads, streets, bridges, including rights of way, traffic signals, landscaping, or any local components of state or federal highways, shall be expended to fund, in whole or in part, system improvement projects:

(A) That have been identified in the capital improvements element of the municipality's comprehensive development plan; and

(B) That are chosen by a municipality after consideration of the following factors:

(i) The proximity of the proposed system improvements to developments within the service area which have generated development impact fees collected for roads, streets, bridges, including rights of way, traffic signals, landscaping, or any local components of state or federal highways; and

(ii) The proposed system improvements which will have the greatest effect on level of service for roads, streets, bridges, including rights of way, traffic signals, landscaping, or any local components of state or federal highways impacted by the developments which have paid such impact fees.

(2) Where the expenditure of development impact fees paid by a development is allocated to system improvements in the general area of such development, through an agreement between the municipality and the developer and such agreement is approved by the governing body, the analysis required by subparagraph (B) of paragraph (1) of this subsection shall not be applicable.

(3) The provisions of this subsection shall only apply to municipalities that have more than 140,000 parcels of land.

(d)(1) As part of its annual audit process, a municipality or county shall prepare an annual report describing the amount of any development impact fees collected, encumbered, and used during the preceding year by category of public facility and service area.

(2) In municipalities that have more than 140,000 parcels of land, the portion of the annual report relating to development impact fees collected for roads, streets, bridges, including rights of way, traffic signals, landscaping, or any local components of state or federal highways shall be referred to such municipality's most recently constituted Development Impact Fee Advisory Committee which shall report to the governing body of such municipality any perceived inequities in the expenditure of impact fees collected for roads, streets, bridges, including rights of way, traffic signals, landscaping, or any local components of state or federal highways."

SECTION 5.

This Act shall become effective on July 1, 2007.

SECTION 6.

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

Approved May 24, 2007.

REDESIGNATE GEORGIA'S HIGH TECH CORRIDOR; REDEDICATE GOLDEN ISLES PARKWAY.

No. 233 (House Resolution No. 201).

A RESOLUTION

Removing the designation of a portion of Georgia's High Tech Corridor and amending Part II of a Resolution Act approved May 16, 2002 (Ga. L. 2002, p. 1460); dedicating the Golden Isles Parkway; and for other purposes.

PART I

WHEREAS, in 2002, the General Assembly, by Res. Act No. 1327, designated Georgia's High Tech Corridor.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the portion of US 341 from the corporate limits of the City of Perry to the corporate limits of the City of Brunswick shall no longer be designated as Georgia's High Tech Corridor. The Department of Transportation is authorized and directed to remove from such highway any signs identifying such corridor.

BE IT FURTHER RESOLVED that Part II of a Resolution Act approved May 16, 2002 (Ga. L. 2002, p. 1460) is amended to read as follows:

"BE IT FURTHER RESOLVED that the portion of U.S. Highway 441 from the corporate limits of the City of Dublin to the point at which it connects with U.S. Highway 341 is designated as Georgia's High Tech Corridor, and the Department of Transportation is authorized and directed to place appropriate signs at appropriate locations designating said highway as provided in this resolution."

PART II

WHEREAS, in 1978, the General Assembly, by Res. Act No. 221, designated a portion of certain highways as the Golden Isles Highway.

WHEREAS, in 1978, the General Assembly, by Res. Act No. 221, designated a portion of certain highways as the Golden Isles Connector.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the portion of the state highway system beginning at the intersection of I16 and US 23 and continuing to the intersection of US 23 and US 341 shall continue to be dedicated as the Golden Isles Highway. US 341 from its intersection with US 23 to the City of Brunswick is hereby dedicated as the Golden Isles Parkway. US 341 from its intersection with US 23 to the City of Brunswick shall no longer be dedicated as the Golden Isles Highway. The Department of Transportation is authorized and directed to remove from this portion of the state highway system any signs identifying such corridor as the Golden Isles Highway and replace them with signs identifying such corridor as the Golden Isles Parkway.

BE IT FURTHER RESOLVED that the portion of US 341 beginning at I75 and ending in Eastman at the intersection of US 23 is hereby dedicated as the Golden Isles Parkway. This portion of the state highway system shall no longer be dedicated as the Golden Isles Connector. The Department of Transportation is authorized and directed to remove from such highway any signs identifying such corridor as the Golden Isles Connector and replace them with signs identifying such corridor as the Golden Isles Parkway.

BE IT FURTHER RESOLVED that Res. Act No. 221, approved April 6, 1978 (Ga. L. 1978, p. 2138) is amended by replacing Golden Isles Highway and Golden Isles Connector with Golden Isles Parkway wherever it is appropriate to resolve any conflicts with this resolution.

BE IT FURTHER RESOLVED that the Clerk of the House of Representatives is directed to transmit an appropriate copy of this resolution to the Department of Transportation.

Approved May 24, 2007.

REVENUE – SALES TAX EXEMPTION;
ALTERNATIVE FUEL FACILITY.

No. 234 (House Bill No. 186).

AN ACT

To amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use tax, so as to provide for a temporary exemption regarding the sale of tangible personal property to, or used in or for the construction of, an alternative fuel facility primarily dedicated to the processing and production of ethanol, biodiesel, and butanol; to provide for definitions; to provide for powers, duties, and authority of the state

revenue commissioner with respect to the foregoing; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use tax, is amended by adding a new paragraph as follows:

"(34.4)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, sales of tangible personal property to, or used in or for the construction of, an alternative fuel facility primarily dedicated to the production and processing of ethanol, biodiesel, butanol, and their by-products, when such fuels are derived from biomass materials such as agricultural products, or from animal fats, or the wastes of such products or fats.

(B) As used in this paragraph, the term:

(i) 'Alternative fuel facility' means any facility located in this state which is primarily dedicated to the production and processing of ethanol, biodiesel, butanol, and their by-products for sale.

(ii) 'Used in or for the construction' means any tangible personal property incorporated into a new alternative fuel facility that loses its character of tangible personal property. Such term does not mean tangible personal property that is temporary in nature, leased or rented, tools, or other items not incorporated into the facility.

(C) Any person making a sale of tangible personal property for the purpose specified in this paragraph shall collect the tax imposed on this sale unless the purchaser furnishes an exemption certificate issued by the commissioner certifying that the purchaser is entitled to purchase the tangible personal property without payment of tax.

(D) Any corporation, partnership, limited liability company, or any other entity or person that qualifies for this exemption must conduct at least a majority of its business with entities or persons with which it has no affiliation.

(E) The exemption provided for under subparagraph (A) of this paragraph shall not apply to sales of tangible personal property that occur after the production and processing of biodiesel, ethanol, butanol, and their by-products has begun at the alternative fuel facility.

(F) The exemption provided for under subparagraph (A) of this paragraph shall apply only to sales occurring during the period July 1, 2007, through June 30, 2012.

(G) The commissioner shall promulgate any rules and regulations necessary to implement and administer this paragraph."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 24, 2007.

LOCAL GOVERNMENT – PUBLIC SAFETY AND JUDICIAL FACILITIES AUTHORITIES; BONDS; ACTIVATION.

No. 235 (House Bill No. 181).

AN ACT

To amend Chapter 75 of Title 36 of the Official Code of Georgia Annotated, relating to war on terrorism local assistance, so as to provide for limitations with respect to the creation, activation, and activities of public safety and judicial facilities authorities; to require resolutions and referendums prior to issuing bonds for new projects; to provide that certain authorities located in counties that have activated or activate public safety and judicial facilities authorities shall obtain approval by resolution and referendum prior to issuing bonds; to provide that counties or municipalities that activate a public safety and judicial facilities authority shall not activate a joint public safety and judicial facilities authority; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 75 of Title 36 of the Official Code of Georgia Annotated, relating to war on terrorism local assistance, is amended by adding new Code sections to read as follows:

"36-75-11.

(a) On and after the effective date of this Code section, no public safety and judicial facilities authority created and activated by a single county pursuant to this chapter shall be authorized to issue bonded indebtedness for new projects unless a resolution approving such projects passed by a majority vote of the governing authority of the county that

created and activated such authority was ratified by the electors of the county in a referendum.

(b) If a public safety and judicial facilities authority created and activated by a single county pursuant to this chapter desires to fund multiple projects in a bond issue, such projects shall be ranked in the order they will be funded after approval by the governing authority and ratification by the electors under this Code section. Such order of funding shall be binding on the public safety and judicial facilities authority and such projects shall be funded in the order approved unless a different order is submitted to the governing authority for approval and electors for ratification.

(c) Any authority other than the type of authority defined in paragraph (1) of Code Section 36-75-3:

(1) Which is authorized by general or local Act to operate and incur bonded indebtedness in a single county that has activated or that activates a public safety and judicial facilities authority pursuant to this chapter; and

(2) Which constructs or operates buildings or facilities for use by any department, agency, division, or commission of any county that has activated or that activates a public safety and judicial facilities authority pursuant to this chapter

shall obtain approval by resolution and referendum as provided in this Code section prior to issuing bonds for any new buildings or facilities or improvements to existing buildings or facilities.

36-75-12.

Those public safety and judicial facilities authorities created and activated pursuant to this chapter that have issued the $50 million maximum aggregate amount of bonds permitted under paragraph (13) of Code Section 36-75-7 shall be subject to the provisions of Code Section 36-75-11 when such bonded indebtedness is reduced and such authorities desire to issue additional bonds for new projects.

36-75-13.

On and after the effective date of this Code section, no county or municipality that has activated or that activates a public safety and judicial facilities authority shall also activate a joint public safety and judicial facilities authority."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 24, 2007.

COURTS – ASSOCIATE JUVENILE COURT JUDGE; QUALIFICATIONS.

No. 236 (House Bill No. 168).

AN ACT

To amend Code Section 15-11-21 of the Official Code of Georgia Annotated, relating to associate juvenile court judges, appointment and compensation, qualifications, conduct of hearings, and rehearing, so as to change the qualifications for an associate juvenile court judge; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 15-11-21 of the Official Code of Georgia Annotated, relating to associate juvenile court judges, appointment and compensation, qualifications, conduct of hearings, and rehearing, is amended by revising subsections (a) and (b) as follows:

"(a) The judge may appoint one or more persons to serve as associate juvenile court judge in juvenile matters on a full-time or part-time basis. The associate juvenile court judge shall serve at the pleasure of the judge, and his or her salary shall be fixed by the judge with the approval of the governing authority or governing authorities of the county or counties for which the associate juvenile court judge is appointed. The salary of each associate juvenile court judge shall be paid from county funds.

(b) Each associate juvenile court judge shall have the same qualifications as required for a judge of the juvenile court as provided in subsection (e) of Code Section 15-11-18; provided, however, that any person serving as an associate juvenile court judge on July 1, 2007, shall be qualified for appointment thereafter to serve as an associate juvenile court judge."

SECTION 2.

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

Approved May 24, 2007.

COURTS – APPELLATE JUSTICES AND JUDGES; TRAVEL ALLOWANCES.

No. 237 (House Bill No. 120).

AN ACT

To amend Chapter 2 and Chapter 3 of Title 15 of the Official Code of Georgia Annotated, relating to the Supreme Court and Court of Appeals respectively, so as to provide for travel allowances for certain appellate Justices and Judges; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 15 of the Official Code of Georgia Annotated, relating to the Supreme Court, is amended by revising subsection (b) of Code Section 15-2-3, relating to oath of Justices and compensation, to read as follows:

"(b)(1) The annual salary of each Justice of the Supreme Court shall be as specified in Code Section 45-7-4. Such salary shall be paid in equal monthly installments.

(2) The Justices shall receive expenses and allowances as provided in Code Section 45-7-20. If a Justice resides 50 miles or more from the judicial building in Atlanta, such Justice shall also receive a mileage allowance for the use of a personal motor vehicle when devoted to official business as provided for in Code Section 50-19-7, for not more than one round trip per calendar week to and from the Justice's residence and the judicial building in Atlanta by the most practical route, during each regular and extraordinary session of court. In the event a Justice travels by public carrier for any part of a round trip as provided above, such Justice shall receive a travel allowance of actual transportation costs for each such part in lieu of the mileage allowance. Transportation costs incurred by a Justice for air travel to and from the Justice's residence to the judicial building in Atlanta shall be reimbursed only to the extent that such costs do not exceed the cost of travel by personal motor vehicle. All allowances provided for in this paragraph shall be paid upon the submission of proper vouchers."

SECTION 2.

Chapter 3 of Title 15 of the Official Code of Georgia Annotated, relating to the Court of Appeals, is amended by revising subsection (b) of Code Section 15-3-5, relating to oath of Judges and compensation, to read as follows:

"(b)(1) The annual salary of each Judge of the Court of Appeals shall be as specified in Code Section 45-7-4. Such salary shall be paid in equal monthly installments.

(2) The Judges shall receive expenses and allowances as provided in Code Section 45-7-20. If a Judge resides 50 miles or more from the judicial building in Atlanta, such Judge shall also receive a mileage allowance for the use of a personal motor vehicle when devoted to official business as provided for in Code Section 50-19-7, for not more than one round trip per calendar week to and from the Judge's residence and the judicial building in Atlanta by the most practical route, during each regular and extraordinary session of court. In the event a Judge travels by public carrier for any part of a round trip as provided above, such Justice shall receive a travel allowance of actual transportation costs for each such part in lieu of the mileage allowance. Transportation costs incurred by a Judge for air travel to and from the Judge's residence to the judicial building in Atlanta shall be reimbursed only to the extent that such costs do not exceed the cost of travel by personal motor vehicle. All allowances provided for in this paragraph shall be paid upon the submission of proper vouchers."

SECTION 3.

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

Approved May 24, 2007.

ROBERT CLARK; COMPENSATION.

No. 238 (House Resolution No. 102).

A RESOLUTION

Compensating Mr. Robert Clark and providing for a state income tax exclusion with respect to such compensation; and for other purposes.

WHEREAS, in 1981, a woman was abducted, raped, and robbed; and

WHEREAS, despite his continued proclamations of innocence, Mr. Robert Clark was arrested and charged with these crimes; and

WHEREAS, as a result of mistaken eyewitness identification, on May 26, 1982, Mr. Clark was convicted of kidnapping with bodily harm, rape, and robbery and sentenced to life imprisonment plus 20 years; and

WHEREAS, Mr. Clark continued adamantly to maintain that he was innocent, and, on December 18, 2003, he filed a petition for DNA testing which was granted; and

WHEREAS, the test concluded that Mr. Clark's DNA did not match the DNA from the semen obtained from the victim's rape kit, and therefore, he was not the perpetrator of the crimes for which he had been tried and convicted; and

WHEREAS, based upon this new evidence, a nolle prosequi was entered with respect to the indictment against Mr. Clark, and, on December 8, 2005, Mr. Clark was immediately released from prison after serving over 23 years in prison; and

WHEREAS, Mr. Clark has suffered loss of liberty, personal injury, lost wages, injury to reputation, emotional distress, and other damages as a result of his over 23 years of incarceration and expenses in trying to prove his innocence; and

WHEREAS, the conviction, incarceration, and subsequent loss of liberty and other damages occurred through no fault or negligence on the part of Mr. Clark, and it is only fitting and proper that he be compensated for his loss.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the Department of Administrative Services is authorized and directed to pay the sum of $1.2 million to Mr. Robert Clark as compensation as provided above. Said sum shall be paid from funds appropriated to or available to the Department of Administrative Services and shall be in full and complete satisfaction of all claims against the state arising out of said occurrence and shall be paid subject to the provisions of this resolution. Said sum shall be paid in the form of two annuities. The first annuity shall be in the amount of $1 million and shall be paid $900,000 in equal monthly installments over a 15 year period of time beginning one year after the initial payment of $100,000. Upon the death of Mr. Robert Clark, all payments and all obligations of the state with respect to any and all future payments with respect to such first annuity shall continue to be made to his estate or heirs. The second annuity shall be in the amount of $200,000.00 and shall be paid in equal monthly installments over a 15 year period with no initial lump sum payment. All payments and all obligations of the state with respect to any and all future payments with respect to such second annuity shall cease upon the date of death of the beneficiary, Mr. Robert Clark. Neither such annuity shall be assignable under any circumstances.

BE IT FURTHER RESOLVED that any amount received by Mr. Robert Clark pursuant to this resolution shall be excluded from his taxable net income for state income tax purposes.

Approved May 24, 2007.

CONVEYANCE OF STATE OWNED PROPERTY.

No. 239 (House Resolution No. 57).

A RESOLUTION

Authorizing the conveyance of certain state owned real property located in Elbert County, Georgia; to repeal conflicting laws; and for other purposes.

WHEREAS, the State of Georgia is the owner of a certain parcel of real property located in Elbert County, Georgia; and

WHEREAS, said real property is all that tract or parcels of land, lying and being in the 189th G.M. District of Elbert County, Georgia, containing 13.660 acres, more or less, and being more particularly described and designated as "Tract 3" on a plat of survey prepared by Gregory J. Evans, Registered Land Surveyor, dated December 22, 1997; recorded in the Plat Book 20, at Page 137, in the Office of the Superior Court of Elbert County, Georgia, hereinafter referred to as "said property"; and

WHEREAS, said property is under the custody of the Department of Defense of the State of Georgia, a state agency established pursuant to Part 2 of Chapter 2 of Title 38 of the Official Code of Georgia Annotated; and

WHEREAS, said property was conveyed to the Department of Defense by a deed of gift with limited warranty on or about August 11, 1998, said deed being duly recorded in book 249, page 215 to 218 with the Elbert County clerk of court's office; and

WHEREAS, the deed of conveyance contained a stipulation that the conveyance was for the purpose of construction and use as a National Guard training center or armory and conditioned that: "[i]f construction on such regional training center or armory has not commenced within five years from the date of this instrument, then [the state] shall automatically forfeit all right, title, and interest in and to said property, the estate of [the state] in and to this property shall automatically terminate, and title shall automatically vest in the City of Elberton, Georgia, a municipal corporation...."; and

WHEREAS, the Department of Defense of the State of Georgia has determined that said property is no longer needed to carry out the mission of the department and the property shall not be used for a National Guard training center, armory, or for a similar purpose; and

WHEREAS, the City of Elberton is desirous of acquiring the above-described property so that the original intent of the Grantor may be carried out and so that the property may be put to its highest and best use for the benefit of the citizens of the City of Elberton; and

WHEREAS, the State Properties Commission is authorized pursuant to Chapter 16 of Title 50 of the Official Code of Georgia Annotated to transfer and convey title of said property belonging to the state and the commission has determined that it is in the best interest of the state to transfer said property more specifically described above to the City of Elberton.

NOW, THEREFORE, BE IT RESOLVED AND ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

That the State of Georgia is the owner of the above-described real property located in Elbert County and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 2.

That said property shall be conveyed to the City of Elberton, a municipal corporation established by law, and its successors and assigns for the consideration of $1.00, the good and real value of which is hereby acknowledged, and under such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia.

SECTION 3.

That the authorization in this resolution to convey said property to the City of Elberton, Elbert County, shall expire five years after the date that this resolution becomes effective.

SECTION 4.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyance and that any deeds of conveyance relative to the transfer of title authorized by this resolution shall be executed by signature of the Governor or his authorized representative or representatives and recorded by the Grantee in the Superior Court of Elbert County and the Grantee shall forward to the State Properties Commission a recorded copy of the deed of conveyance. Upon recording the transferring deed, the state and any state agency shall have no further interest in said property.

SECTION 5.

That all costs associated with the sale of the above-described property shall be borne by the Department of Defense of the State of Georgia.

SECTION 6.

That all laws and parts of laws in conflict with this resolution are repealed.

Approved May 24, 2007.

STATE PROPERTY; NONEXCLUSIVE EASEMENTS.

No. 240 (Senate Resolution No. 249).

A RESOLUTION

Authorizing the granting of nonexclusive easements for operation and maintenance of facilities, utilities, and ingress and egress, in, on, over, under, upon, across, or through property owned by the State of Georgia in Cobb, Floyd, Gwinnett, Muscogee, Paulding, and Ware counties, Georgia; to repeal conflicting laws; and for other purposes.

WHEREAS, the State of Georgia is the owner of certain real property located in Cobb, Floyd, Gwinnett, Muscogee, Paulding, and Ware counties, Georgia; and

WHEREAS, the City of Kennesaw, Atlanta Northern Traction Company LLC, Georgia Power, Gwinnett County, Columbus Consolidated Government, the Public Service Telephone Company, and Jones Company LTD desire to operate and maintain facilities, utilities, and ingress and egress in, on, over, under, upon, across, or through a portion of said property; and

WHEREAS, these facilities, utilities, and ingress and egress in, on, over, under, upon, across, or through the above-described state property have been requested, approved, or both by the State Properties Commission, Department of Human Resources, Department of Technical and Adult Education, the Georgia Bureau of Investigation, the Department of Driver Services, and the Department of Natural Resources.

NOW, THEREFORE, BE IT RESOLVED AND ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I

SECTION 1.

That the State of Georgia is the owner of the hereinafter described real property in Cobb County, and the property is in the custody of the State Properties Commission, hereinafter

referred to as the "easement area" and that, in all matters relating to the easement area, the State of Georgia is acting by and through its State Properties Commission.

SECTION 2.

That the State of Georgia, acting by and through its State Properties Commission, may grant to the City of Kennesaw, or its successors and assigns, a nonexclusive easement for the operation and maintenance of a pedestrian underpass in, on, over, under, upon, across, or through the easement area for the purpose of maintaining, repairing, replacing, inspecting, and operating a pedestrian underpass together with the right of ingress and egress over adjacent land of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purposes. Said easement area is located in the City of Kennesaw, Cobb County, Georgia, and is more particularly described as follows:

"That portion and that portion only as shown in yellow on engineering plans dated March 22, 2006, prepared by R. Scott Caples, URS Corporation and on file in the offices of the State Properties Commission,"

and may be more particularly described by a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval.

SECTION 3.

That the above-described premises shall be used solely for the purpose of installing, maintaining, repairing, replacing, inspecting, and operating said pedestrian underpass.

SECTION 4.

That the City of Kennesaw shall have the right to remove or cause to be removed from said easement area only such trees and bushes as may be reasonably necessary for the proper operation and maintenance of said pedestrian underpass.

SECTION 5.

That, after the City of Kennesaw has put into use the pedestrian underpass for which this easement is granted, a subsequent abandonment of the use thereof shall cause a reversion to the State of Georgia, or its successors and assigns, of all the rights, title, privileges, powers, and easement granted herein. Upon abandonment, the City of Kennesaw, or its successors and assigns, shall have the option of removing its facilities from the easement area or leaving the same in place, in which event the pedestrian underpass shall become the property of the State of Georgia, or its successors and assigns.

SECTION 6.

That no title shall be conveyed to the City of Kennesaw and, except as herein specifically granted to the City of Kennesaw, all rights, title, and interest in and to said easement area is reserved in the State of Georgia, which may make any use of said easement area not

inconsistent with or detrimental to the rights, privileges, and interest granted to the City of Kennesaw.

SECTION 7.

That if the State of Georgia, acting by and through its State Properties Commission, determines that any or all of the facilities placed on the easement area should be removed or relocated to an alternate site on state owned land in order to avoid interference with the state's use or intended use of the easement area, it may grant a substantially equivalent nonexclusive easement to allow placement of the removed or relocated facilities across the alternate site, under such terms and conditions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia, and the City of Kennesaw shall remove or relocate its facilities to the alternate easement area at its sole cost and expense, unless the State Properties Commission determines that the requested removal or relocation is to be for the sole benefit of the State of Georgia and approves payment by the State of Georgia of all or a portion of such actual cost and expense, not to exceed by 20 percent the amount of a written estimate provided by the City of Kennesaw. Upon written request, the State Properties Commission, in its sole discretion, may permit the relocation of the facilities to an alternate site on state owned land so long as the removal and relocation is paid by the party or parties requesting such removal and at no cost and expense to the State of Georgia.

SECTION 8.

That this resolution does not affect and is not intended to affect any rights, powers, interest, or liability of the Department of Transportation with respect to the state highway system, a county with respect to the county road system, or a municipality with respect to the city street system. Grantee shall obtain any and all other required permits from the appropriate governmental agencies as are necessary for its lawful use of the easement area or public highway right of way and comply with all applicable state and federal environmental statutes in its use of the easement area.

SECTION 9.

That the easement granted to the City of Kennesaw shall contain such other reasonable terms, conditions, and covenants as the State Properties Commission shall deem in the best interest of the State of Georgia and that the State Properties Commission is authorized to use a more accurate description of the easement area, so long as the description utilized by the State Properties Commission describes the same easement area herein granted.

SECTION 10.

That the consideration for such easement shall be $10.00 and such further consideration and provisions as the State Properties Commission may determine to be in the best interest of the State of Georgia.

SECTION 11.

That this grant of easement shall be recorded by the grantee in the Superior Court of Cobb County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 12.

That the authorization in this resolution to grant the above-described easement to the City of Kennesaw shall expire three years after the date that this resolution becomes effective.

SECTION 13.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect the grant of the easement area.

ARTICLE II

SECTION 14.

That the State of Georgia is the owner of the hereinafter described real property in Cobb County, and the property is in the custody of the State Properties Commission, hereinafter referred to as the "easement area" and that, in all matters relating to the easement area, the State of Georgia is acting by and through its State Properties Commission.

SECTION 15.

That the State of Georgia, acting by and through its State Properties Commission, may grant to Atlanta Northern Traction Company LLC, or their successors and assigns, a nonexclusive easement for the operation and maintenance of a pedestrian overhead bridge in, on, over, under, upon, across, or through the easement area for the purpose of maintaining, repairing, replacing, inspecting, and operating a pedestrian overhead bridge together with the right of ingress and egress over adjacent land of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purposes. Said easement area is located in Cobb County, Georgia, and is more particularly described as follows:

"That portion and that portion only as shown in yellow on a registered professional engineers drawing dated March 2, 2006, prepared by Lewis Carl Carver, #25434 and on file in the offices of the State Properties Commission,"

and may be more particularly described by a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval.

SECTION 16.

That the above-described premises shall be used solely for the purpose of installing, maintaining, repairing, replacing, inspecting, and operating said pedestrian overhead bridge.

SECTION 17.

That Atlanta Northern Traction Company LLC shall have the right to remove or cause to be removed from said easement area only such trees and bushes as may be reasonably necessary for the proper operation and maintenance of said pedestrian overhead bridge.

SECTION 18.

That, after Atlanta Northern Traction Company LLC has put into use the pedestrian overhead bridge for which this easement is granted, a subsequent abandonment of the use thereof shall cause a reversion to the State of Georgia, or its successors and assigns, of all the rights, title, privileges, powers, and easement granted herein. Upon abandonment, Atlanta Northern Traction Company LLC, or its successors and assigns, shall have the option of removing their facilities from the easement area or leaving the same in place, in which event the pedestrian overhead bridge shall become the property of the State of Georgia, or its successors and assigns.

SECTION 19.

That no title shall be conveyed to Atlanta Northern Traction Company LLC and, except as herein specifically granted to Atlanta Northern Traction Company LLC, all rights, title, and interest in and to said easement area is reserved in the State of Georgia, which may make any use of said easement area not inconsistent with or detrimental to the rights, privileges, and interest granted to Atlanta Northern Traction Company LLC.

SECTION 20.

That if the State of Georgia, acting by and through its State Properties Commission, determines that any or all of the facilities placed on the easement area should be removed or relocated to an alternate site on state owned land in order to avoid interference with the state's use or intended use of the easement area, it may grant a substantially equivalent nonexclusive easement to allow placement of the removed or relocated facilities across the alternate site, under such terms and conditions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia, and Atlanta Northern Traction Company LLC shall remove or relocate its facilities to the alternate easement area at its sole cost and expense, unless the State Properties Commission determines that the requested removal or relocation is to be for the sole benefit of the State of Georgia and approves payment by the State of Georgia of all or a portion of such actual cost and expense, not to exceed by 20 percent the amount of a written estimate provided by Atlanta Northern Traction Company LLC. Upon written request, the State Properties Commission, in its sole discretion, may permit the relocation of the facilities to an alternate site on state owned land so long as the removal and relocation is paid by the party or parties requesting such removal and at no cost and expense to the State of Georgia.

SECTION 21.

That this resolution does not affect and is not intended to affect any rights, powers, interest, or liability of the Department of Transportation with respect to the state highway system, a county with respect to the county road system, or a municipality with respect to the city street system. Grantee shall obtain any and all other required permits from the appropriate governmental agencies as are necessary for its lawful use of the easement area or public highway right of way and comply with all applicable state and federal environmental statutes in its use of the easement area.

SECTION 22.

That the easement granted to Atlanta Northern Traction Company LLC shall contain such other reasonable terms, conditions, and covenants as the State Properties Commission shall deem in the best interest of the State of Georgia and that the State Properties Commission is authorized to use a more accurate description of the easement area, so long as the description utilized by the State Properties Commission describes the same easement area herein granted.

SECTION 23.

That the consideration for such easement shall be for the fair market value, but not less than $650.00, and such further consideration and provisions as the State Properties Commission may determine to be in the best interest of the State of Georgia.

SECTION 24.

That this grant of easement shall be recorded by the grantee in the Superior Court of Cobb County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 25.

That the authorization in this resolution to grant the above-described easement to Atlanta Northern Traction Company LLC shall expire three years after the date that this resolution becomes effective.

SECTION 26.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect the grant of the easement area.

ARTICLE III

SECTION 27.

That the State of Georgia is the owner of the hereinafter described real property in Floyd County, and the property is in the custody of the Department of Human Resources hereinafter referred to as the "easement area" and that, in all matters relating to the easement area, the State of Georgia is acting by and through its State Properties Commission.

SECTION 28.

That the State of Georgia, acting by and through its State Properties Commission, may grant to Georgia Power Company, or its successors and assigns, a nonexclusive easement for the construction, operation, and maintenance of an electrical distribution line in, on, over, under, upon, across, or through the easement area for the purpose of constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating an electrical distribution line together with the right of ingress and egress over adjacent land of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purposes. Said easement area is located in the City of Rome, Floyd County, Georgia, and is more particularly described as follows:

"That portion and that portion only as shown marked in yellow on a drawing prepared by Horne Associates Land Surveyors dated June 22, 2006, prepared by Arthur Lynch and on file in the offices of the State Properties Commission,"

and may be more particularly described by a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval.

SECTION 29.

That the above-described premises shall be used solely for the purpose of planning, constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating said electrical distribution line.

SECTION 30.

That Georgia Power Company shall have the right to remove or cause to be removed from said easement area only such trees and bushes as may be reasonably necessary for the proper construction, operation, and maintenance of said electrical distribution line.

SECTION 31.

That, after Georgia Power Company has put into use the electrical distribution line for which this easement is granted, a subsequent abandonment of the use thereof shall cause a reversion to the State of Georgia, or its successors and assigns, of all the rights, title, privileges, powers, and easement granted herein. Upon abandonment, Georgia Power Company, or its successors and assigns, shall have the option of removing its facilities from the easement area or leaving the same in place, in which event the facility shall become the property of the State of Georgia, or its successors and assigns.

SECTION 32.

That no title shall be conveyed to Georgia Power Company, and, except as herein specifically granted to Georgia Power Company, all rights, title, and interest in and to said easement area is reserved in the State of Georgia, which may make any use of said easement area not inconsistent with or detrimental to the rights, privileges, and interest granted to Georgia Power Company.

SECTION 33.

That if the State of Georgia, acting by and through its State Properties Commission, determines that any or all of the facilities placed on the easement area should be removed or relocated to an alternate site on state owned land in order to avoid interference with the state's use or intended use of the easement area, it may grant a substantially equivalent nonexclusive easement to allow placement of the removed or relocated facilities across the alternate site, under such terms and conditions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia, and Georgia Power Company shall remove or relocate its facilities to the alternate easement area at its sole cost and expense, unless the State Properties Commission determines that the requested removal or relocation is to be for the sole benefit of the State of Georgia and approves payment by the State of Georgia of all or a portion of such actual cost and expense, not to exceed by 20 percent the amount of a written estimate provided by Georgia Power Company. Upon written request, the State Properties Commission, in its sole discretion, may permit the relocation of the facilities to an alternate site on state owned land so long as the removal and relocation is paid by the party or parties requesting such removal and at no cost and expense to the State of Georgia.

SECTION 34.

That this resolution does not affect and is not intended to affect any rights, powers, interest, or liability of the Department of Transportation with respect to the state highway system, a county with respect to the county road system, or a municipality with respect to the city street system. Grantee shall obtain any and all other required permits from the appropriate governmental agencies as are necessary for its lawful use of the easement area or public highway right of way and comply with all applicable state and federal environmental statutes in its use of the easement area.

SECTION 35.

That the easement granted to Georgia Power Company shall contain such other reasonable terms, conditions, and covenants as the State Properties Commission shall deem in the best interest of the State of Georgia and that the State Properties Commission is authorized to use a more accurate description of the easement area, so long as the description utilized by the State Properties Commission describes the same easement area herein granted.

SECTION 36.

That the consideration for such easement shall be $10.00 and such further consideration and provisions as the State Properties Commission may determine to be in the best interest of the State of Georgia.

SECTION 37.

That this grant of easement shall be recorded by the grantee in the Superior Court of Floyd County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 38.

That the authorization in this resolution to grant the above-described easement to Georgia Power Company shall expire three years after the date that this resolution becomes effective.

SECTION 39.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect the grant of the easement area.

ARTICLE IV

SECTION 40.

That the State of Georgia is the owner of the hereinafter described real property in Gwinnett County, and the property is in the custody of the Department of Technical and Adult Education, hereinafter referred to as the "easement area" and that, in all matters relating to the easement area, the State of Georgia is acting by and through its State Properties Commission.

SECTION 41.

That the State of Georgia, acting by and through its State Properties Commission, may grant to Gwinnett County, or its successors and assigns, a nonexclusive easement for the construction, operation, and maintenance of a traffic signal on, over, under, upon, across, or through the easement area for the purpose of constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating a traffic signal together with the right of ingress and egress over adjacent land of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purposes for so long as no red light camera or similar traffic-control signal monitoring device is utilized at said intersection. Said easement area is located in Gwinnett County, Georgia, and is more particularly described as follows:

"Those portions and those portions only as shown in yellow on a Wolverton & Associates right of way plan dated April 18, 2006, and on file in the offices of the State Properties Commission,"

and may be more particularly described by a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval.

SECTION 42.

That the above-described premises shall be used solely for the purpose of planning, constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating said traffic signal.

SECTION 43.

That Gwinnett County shall have the right to remove or cause to be removed from said easement area only such trees and bushes as may be reasonably necessary for the proper construction, operation, and maintenance of said traffic signal.

SECTION 44.

That, after Gwinnett County puts into use the traffic signal for which this easement is granted, a subsequent abandonment of the use thereof shall cause a reversion to the State of Georgia, or its successors and assigns, of all the rights, title, privileges, powers, and easement granted herein. Upon abandonment, Gwinnett County, or its successors and assigns, shall have the option of removing its facilities from the easement area or leaving the same in place, in which event the facility shall become the property of the State of Georgia, or its successors and assigns.

SECTION 45.

That no title shall be conveyed to Gwinnett County and, except as herein specifically granted to Gwinnett County, all rights, title, and interest in and to said easement area is reserved in the State of Georgia, which may make any use of said easement area not inconsistent with or detrimental to the rights, privileges, and interest granted to Gwinnett County.

SECTION 46.

That this resolution does not affect and is not intended to affect any rights, powers, interest, or liability of the Department of Transportation with respect to the state highway system, a county with respect to the county road system, or a municipality with respect to the city street system. Grantee shall obtain any and all other required permits from the appropriate governmental agencies as are necessary for its lawful use of the easement area or public highway right of way and comply with all applicable state and federal environmental statutes in its use of the easement area.

SECTION 47.

That if the State of Georgia, acting by and through its State Properties Commission, determines that any or all of the facilities placed on the easement area should be removed or relocated to an alternate site on state owned land in order to avoid interference with the state's use or intended use of the easement area, it may grant a substantially equivalent nonexclusive easement to allow placement of the removed or relocated facilities across the alternate site, under such terms and conditions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia, and Gwinnett County shall remove or relocate its facilities to the alternate easement area at its sole cost and expense, unless the State Properties Commission determines that the requested removal or relocation is to be for the sole benefit of the State of Georgia and approves payment by the State of Georgia of all or a portion of such actual cost and expense, not to exceed by

20 percent the amount of a written estimate provided by Gwinnett County. Upon written request, the State Properties Commission, in its sole discretion, may permit the relocation of the facilities to an alternate site on state owned land so long as the removal and relocation is paid by the party or parties requesting such removal and at no cost and expense to the State of Georgia.

SECTION 48.

That the easement granted to Gwinnett County shall contain such other reasonable terms, conditions, and covenants as the State Properties Commission shall deem in the best interest of the State of Georgia and that the State Properties Commission is authorized to use a more accurate description of the easement area, so long as the description utilized by the State Properties Commission describes the same easement area herein granted.

SECTION 49.

That the consideration for such easement shall be $10.00 and such further consideration and provisions as the State Properties Commission may determine to be in the best interest of the State of Georgia.

SECTION 50.

That this grant of easement shall be recorded by the grantee in the Superior Court of Gwinnett County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 51.

That the authorization in this resolution to grant the above-described easement to Gwinnett County shall expire three years after the date that this resolution becomes effective.

SECTION 52.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect the grant of the easement area.

ARTICLE V

SECTION 53.

That the State of Georgia is the owner of the hereinafter described real property in Muscogee County, and the property is in the custody of the State Properties Commission, hereinafter referred to as the "easement area" and that, in all matters relating to the easement area, the State of Georgia is acting by and through its State Properties Commission.

SECTION 54.

That the State of Georgia, acting by and through its State Properties Commission, may grant to the Columbus Consolidated Government, or its successors and assigns, a nonexclusive easement for the construction, operation, and maintenance of sanitary and storm sewer lines in, on, over, under, upon, across, or through the easement area for the purpose of constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating sanitary and storm sewer lines together with the right of ingress and egress over adjacent land of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purposes. Said easement area is located in land lot 59, 9th district of Columbus, Muscogee County, Georgia, and is more particularly described as follows:

"That portion and that portion only as shown in yellow on a plat of survey dated October 28, 2005, prepared by A.B. Moon Jr., Georgia Reg. No. 782, and on file in the offices of the State Properties Commission,"

and may be more particularly described by a plats of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval.

SECTION 55.

That the above-described premises shall be used solely for the purpose of planning, constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating said sanitary and storm sewer lines.

SECTION 56.

That the Columbus Consolidated Government shall have the right to remove or cause to be removed from said easement area only such trees and bushes as may be reasonably necessary for the proper construction, operation, and maintenance of said sanitary and storm sewer lines.

SECTION 57.

That, after the Columbus Consolidated Government has put into use the sanitary and storm sewer lines for which this easement is granted, a subsequent abandonment of the use thereof shall cause a reversion to the State of Georgia, or its successors and assigns, of all the rights, title, privileges, powers, and easement granted herein. Upon abandonment, the Columbus Consolidated Government, or its successors and assigns, shall have the option of removing its facilities from the easement area or leaving the same in place, in which event the facility shall become the property of the State of Georgia, or its successors and assigns.

SECTION 58.

That no title shall be conveyed to the Columbus Consolidated Government, and, except as herein specifically granted to the Columbus Consolidated Government, all rights, title, and interest in and to said easement area is reserved in the State of Georgia, which may make any

use of said easement area not inconsistent with or detrimental to the rights, privileges, and interest granted to the Columbus Consolidated Government.

SECTION 59.

That this resolution does not affect and is not intended to affect any rights, powers, interest, or liability of the Department of Transportation with respect to the state highway system, a county with respect to the county road system, or a municipality with respect to the city street system. Grantee shall obtain any and all other required permits from the appropriate governmental agencies as are necessary for its lawful use of the easement area or public highway right of way and comply with all applicable state and federal environmental statutes in its use of the easement area.

SECTION 60.

That if the State of Georgia, acting by and through its State Properties Commission, determines that any or all of the facilities placed on the easement area should be removed or relocated to an alternate site on state owned land in order to avoid interference with the state's use or intended use of the easement area, it may grant a substantially equivalent nonexclusive easement to allow placement of the removed or relocated facilities across the alternate site, under such terms and conditions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia, and the Columbus Consolidated Government shall remove or relocate its facilities to the alternate easement area at its sole cost and expense, unless the State Properties Commission determines that the requested removal or relocation is to be for the sole benefit of the State of Georgia and approves payment by the State of Georgia of all or a portion of such actual cost and expense, not to exceed by 20 percent the amount of a written estimate provided by the Columbus Consolidated Government. Upon written request, the State Properties Commission, in its sole discretion, may permit the relocation of the facilities to an alternate site on state owned land so long as the removal and relocation is paid by the party or parties requesting such removal and at no cost and expense to the State of Georgia.

SECTION 61.

That the easement granted to the Columbus Consolidated Government shall contain such other reasonable terms, conditions, and covenants as the State Properties Commission shall deem in the best interest of the State of Georgia and that the State Properties Commission is authorized to use a more accurate description of the easement area, so long as the description utilized by the State Properties Commission describes the same easement area herein granted.

SECTION 62.

That the consideration for such easement shall be for $10.00, and such further consideration and provisions as the State Properties Commission may determine to be in the best interest of the State of Georgia.

SECTION 63.

That this grant of easement shall be recorded by the grantee in the Superior Court of Muscogee County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 64.

That the authorization in this resolution to grant the above-described easement to the Columbus Consolidated Government shall expire three years after the date that this resolution becomes effective.

SECTION 65

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect the grant of the easement area.

ARTICLE VI

SECTION 66.

That the State of Georgia is the owner of the hereinafter described real property in Muscogee County, and the property is in the custody of the Georgia Bureau of Investigation and the Department of Driver Services, hereinafter referred to as the "easement area" and that, in all matters relating to the easement area, the State of Georgia is acting by and through its State Properties Commission.

SECTION 67.

That the State of Georgia, acting by and through its State Properties Commission, may grant to the Public Service Telephone Company, or its successors and assigns, a nonexclusive easement for the construction, operation, and maintenance of a telephone line in, on, over, under, upon, across, or through the easement area for the purpose of constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating telephone lines together with the right of ingress and egress over adjacent land of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purposes. Said easement area is located in land lot 100 of the 10th district of Columbus, Muscogee County, Georgia, and is more particularly described as follows:

"That portion and that portion only as shown highlighted in yellow on a plat of survey dated February 18, 2003, prepared by Ronald J. Heald Jr., Georgia, Reg., No. 2732, and all being on file in the offices of the State Properties Commission,"

and may be more particularly described by a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval.

SECTION 68.

That the above-described premises shall be used solely for the purpose of planning, constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating said telephone line.

SECTION 69.

That the Public Service Telephone Company shall have the right to remove or cause to be removed from said easement area only such trees and bushes as may be reasonably necessary for the proper construction, operation, and maintenance of said telephone lines.

SECTION 70.

That, after the Public Service Telephone Company has put into use the telephone line for which this easement is granted, a subsequent abandonment of the use thereof shall cause a reversion to the State of Georgia, or its successors and assigns, of all the rights, title, privileges, powers, and easement granted herein. Upon abandonment, the Public Service Telephone Company, or its successors and assigns, shall have the option of removing its facilities from the easement area or leaving the same in place, in which event the facility shall become the property of the State of Georgia, or its successors and assigns.

SECTION 71.

That no title shall be conveyed to the Public Service Telephone Company, and, except as herein specifically granted to the Public Service Telephone Company, all rights, title, and interest in and to said easement area is reserved in the State of Georgia, which may make any use of said easement area not inconsistent with or detrimental to the rights, privileges, and interest granted to the Public Service Telephone Company.

SECTION 72.

That this resolution does not affect and is not intended to affect any rights, powers, interest, or liability of the Department of Transportation with respect to the state highway system, a county with respect to the county road system, or a municipality with respect to the city street system. Grantee shall obtain any and all other required permits from the appropriate governmental agencies as are necessary for its lawful use of the easement area or public highway right of way and comply with all applicable state and federal environmental statutes in its use of the easement area.

SECTION 73.

That if the State of Georgia, acting by and through its State Properties Commission, determines that any or all of the facilities placed on the easement area should be removed or relocated to an alternate site on state owned land in order to avoid interference with the state's use or intended use of the easement area, it may grant a substantially equivalent nonexclusive easement to allow placement of the removed or relocated facilities across the

alternate site, under such terms and conditions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia, and the Public Service Telephone Company shall remove or relocate its facilities to the alternate easement area at its sole cost and expense, unless the State Properties Commission determines that the requested removal or relocation is to be for the sole benefit of the State of Georgia and approves payment by the State of Georgia of all or a portion of such actual cost and expense, not to exceed by 20 percent the amount of a written estimate provided by the Public Service Telephone Company. Upon written request, the State Properties Commission, in its sole discretion, may permit the relocation of the facilities to an alternate site on state owned land so long as the removal and relocation is paid by the party or parties requesting such removal and at no cost and expense to the State of Georgia.

SECTION 74.

That the easement granted to the Public Service Telephone Company shall contain such other reasonable terms, conditions, and covenants as the State Properties Commission shall deem in the best interest of the State of Georgia and that the State Properties Commission is authorized to use a more accurate description of the easement area, so long as the description utilized by the State Properties Commission describes the same easement area herein granted.

SECTION 75.

That the consideration for such easement shall be $650.00 and such further consideration and provisions as the State Properties Commission may determine to be in the best interest of the State of Georgia.

SECTION 76.

That this grant of easement shall be recorded by the grantee in the Superior Court of Muscogee County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 77.

That the authorization in this resolution to grant the above-described easement to the Public Service Telephone Company shall expire three years after the date that this resolution becomes effective.

SECTION 78.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect the grant of the easement area.

ARTICLE VII
SECTION 79.

That the State of Georgia is the owner of the hereinafter described real property in Paulding County, and the property is in the custody of the Department of Natural Resources, hereinafter referred to as the "easement area" and that, in all matters relating to the easement area, the State of Georgia is acting by and through its State Properties Commission.

SECTION 80.

That the State of Georgia, acting by and through its State Properties Commission, may grant to Jones Company LTD, or its successors and assigns, a nonexclusive easement for the construction, operation, and maintenance of ingress and egress in, on, over, under, upon, across, or through the easement area for the purpose of constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating ingress and egress together with the right of ingress and egress over adjacent land of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purposes. Said easement area is located in land lots 317, 332, 333, 334, and 387 of the 18th district, 3rd section of Paulding County, Georgia, and is more particularly described as follows:

"That portion and that portion only as shown in yellow on a plat of survey prepared by Donald Earl Long, No.2039, dated August 7, 2006, and on file in the offices of the State Properties Commission,"

and may be more particularly described by a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval.

SECTION 81.

That the above-described premises shall be used solely for the purpose of planning, constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating said ingress and egress.

SECTION 82.

That Jones Company LTD shall have the right to remove or cause to be removed from said easement area only such trees and bushes as may be reasonably necessary for the proper construction, operation, and maintenance of said ingress and egress.

SECTION 83.

That, after Jones Company LTD has put into use the ingress and egress for which this easement is granted, a subsequent abandonment of the use thereof shall cause a reversion to the State of Georgia, or its successors and assigns, of all the rights, title, privileges, powers, and easement granted herein. Upon abandonment, Jones Company LTD, or its successors and assigns, shall have the option of removing its facilities from the easement area or leaving

the same in place, in which event the facility shall become the property of the State of Georgia, or its successors and assigns.

SECTION 84.

That no title shall be conveyed to Jones Company LTD, and, except as herein specifically granted to Jones Company LTD, all rights, title, and interest in and to said easement area is reserved in the State of Georgia, which may make any use of said easement area not inconsistent with or detrimental to the rights, privileges, and interest granted to Jones Company LTD.

SECTION 85.

That this resolution does not affect and is not intended to affect any rights, powers, interest, or liability of the Department of Transportation with respect to the state highway system, a county with respect to the county road system, or a municipality with respect to the city street system. Grantee shall obtain any and all other required permits from the appropriate governmental agencies as are necessary for its lawful use of the easement area or public highway right of way and comply with all applicable state and federal environmental statutes in its use of the easement area.

SECTION 86.

That if the State of Georgia, acting by and through its State Properties Commission, determines that any or all of the facilities placed on the easement area should be removed or relocated to an alternate site on state owned land in order to avoid interference with the state's use or intended use of the easement area, it may grant a substantially equivalent nonexclusive easement to allow placement of the removed or relocated facilities across the alternate site, under such terms and conditions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia, and Jones Company LTD shall remove or relocate its facilities to the alternate easement area at its sole cost and expense, unless the State Properties Commission determines that the requested removal or relocation is to be for the sole benefit of the State of Georgia and approves payment by the State of Georgia of all or a portion of such actual cost and expense, not to exceed by 20 percent the amount of a written estimate provided by Jones Company LTD. Upon written request, the State Properties Commission, in its sole discretion, may permit the relocation of the facilities to an alternate site on state owned land so long as the removal and relocation is paid by the party or parties requesting such removal and at no cost and expense to the State of Georgia.

SECTION 87.

That the easement granted to Jones Company LTD shall contain such other reasonable terms, conditions, and covenants as the State Properties Commission shall deem in the best interest of the State of Georgia and that the State Properties Commission is authorized to use a more

accurate description of the easement area, so long as the description utilized by the State Properties Commission describes the same easement area herein granted.

SECTION 88.

That the consideration for such easement shall be $10.00 and such further consideration and provisions as the State Properties Commission may determine to be in the best interest of the State of Georgia.

SECTION 89.

That this grant of easement shall be recorded by the grantee in the Superior Court of Paulding County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 90.

That the authorization in this resolution to grant the above-described easement to Jones Company LTD shall expire three years after the date that this resolution becomes effective.

SECTION 91.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect the grant of the easement area.

ARTICLE VIII
SECTION 92.

That the State of Georgia is the owner of the hereinafter described real property in Ware County, and the property is in the custody of the Department of Human Resources, hereinafter referred to as the "easement area" and that, in all matters relating to the easement area, the State of Georgia is acting by and through its State Properties Commission.

SECTION 93.

That the State of Georgia, acting by and through its State Properties Commission, may grant to Georgia Power Company, or its successors and assigns, a nonexclusive easement for the construction, operation, and maintenance of an underground electrical line in, on, over, under, upon, across, or through the easement area for the purpose of constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating an underground electrical line together with the right of ingress and egress over adjacent land of the State of Georgia as may be reasonably necessary to accomplish the aforesaid purposes. Said easement area is located in land lot 210 of the 8th district, Ware County, Georgia, and is more particularly described as follows:

"That portion and that portion only as shown in yellow on a plat of survey, prepared by Harry A. Strickland, No. 2409, dated October 2, 2006, and on file in the offices of the State Properties Commission,"

and may be more particularly described by a plat of survey prepared by a Georgia Registered Land Surveyor and presented to the State Properties Commission for approval.

SECTION 94.

That the above-described premises shall be used solely for the purpose of planning, constructing, erecting, installing, maintaining, repairing, replacing, inspecting, and operating said underground electrical line.

SECTION 95.

That Georgia Power Company shall have the right to remove or cause to be removed from said easement area only such trees and bushes as may be reasonably necessary for the proper construction, operation, and maintenance of said underground electrical line.

SECTION 96.

That, after Georgia Power Company has put into use the underground electrical line for which this easement is granted, a subsequent abandonment of the use thereof shall cause a reversion to the State of Georgia, or its successors and assigns, of all the rights, title, privileges, powers, and easement granted herein. Upon abandonment, Georgia Power Company, or its successors and assigns, shall have the option of removing its facilities from the easement area or leaving the same in place, in which event the facility shall become the property of the State of Georgia, or its successors and assigns.

SECTION 97.

That no title shall be conveyed to Georgia Power Company, and, except as herein specifically granted to Georgia Power Company, all rights, title, and interest in and to said easement area is reserved in the State of Georgia, which may make any use of said easement area not inconsistent with or detrimental to the rights, privileges, and interest granted to Georgia Power Company.

SECTION 98.

That this resolution does not affect and is not intended to affect any rights, powers, interest, or liability of the Department of Transportation with respect to the state highway system, a county with respect to the county road system, or a municipality with respect to the city street system. Grantee shall obtain any and all other required permits from the appropriate governmental agencies as are necessary for its lawful use of the easement area or public highway right of way and comply with all applicable state and federal environmental statutes in its use of the easement area.

SECTION 99.

That if the State of Georgia, acting by and through its State Properties Commission, determines that any or all of the facilities placed on the easement area should be removed or

relocated to an alternate site on state owned land in order to avoid interference with the state's use or intended use of the easement area, it may grant a substantially equivalent nonexclusive easement to allow placement of the removed or relocated facilities across the alternate site, under such terms and conditions as the State Properties Commission shall in its discretion determine to be in the best interests of the State of Georgia, and Georgia Power Company shall remove or relocate its facilities to the alternate easement area at its sole cost and expense, unless the State Properties Commission determines that the requested removal or relocation is to be for the sole benefit of the State of Georgia and approves payment by the State of Georgia of all or a portion of such actual cost and expense, not to exceed by 20 percent the amount of a written estimate provided by Georgia Power Company. Upon written request, the State Properties Commission, in its sole discretion, may permit the relocation of the facilities to an alternate site on state owned land so long as the removal and relocation is paid by the party or parties requesting such removal and at no cost and expense to the State of Georgia.

SECTION 100.

That the easement granted to Georgia Power Company shall contain such other reasonable terms, conditions, and covenants as the State Properties Commission shall deem in the best interest of the State of Georgia and that the State Properties Commission is authorized to use a more accurate description of the easement area, so long as the description utilized by the State Properties Commission describes the same easement area herein granted.

SECTION 101.

That the consideration for such easement shall be $10.00, and such further consideration and provisions as the State Properties Commission may determine to be in the best interest of the State of Georgia.

SECTION 102.

That this grant of easement shall be recorded by the grantee in the Superior Court of Ware County and a recorded copy shall be forwarded to the State Properties Commission.

SECTION 103.

That the authorization in this resolution to grant the above-described easement to Georgia Power Company shall expire three years after the date that this resolution becomes effective.

SECTION 104.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect the grant of the easement area.

ARTICLE IX
SECTION 105.

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

Approved May 24, 2007.

COMMERCE – CRIMES – GEORGIA PERSONAL IDENTITY PROTECTION ACT.

No. 241 (Senate Bill No. 236).

AN ACT

To amend Article 34 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to identity theft, so as to provide for definitions; to provide for notification by certain data collectors upon a breach of security regarding personal information; to amend Article 8 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to the offense of identity fraud, so as to change certain provisions relating to the elements of the offense of identity fraud; to create the offense of identity fraud by receipt of fraudulent identification information; to provide for a victim's right to file a report with a law enforcement agency; to provide a short title; to modify certain penalties; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
This Act shall be known and may be cited as the "Georgia Personal Identity Protection Act."

SECTION 2.
Article 34 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to identity theft, is amended by revising Code Section 10-1-911, relating to definitions, as follows:

"10-1-911.

As used in this article, the term:

(1) 'Breach of the security of the system' means unauthorized acquisition of an individual's electronic data that compromises the security, confidentiality, or integrity of personal information of such individual maintained by an information broker or data collector. Good faith acquisition or use of personal information by an employee or agent

of an information broker or data collector for the purposes of such information broker or data collector is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

(2) 'Data collector' means any state or local agency or subdivision thereof including any department, bureau, authority, public university or college, academy, commission, or other government entity; provided, however, that the term 'data collector' shall not include any governmental agency whose records are maintained primarily for traffic safety, law enforcement, or licensing purposes or for purposes of providing public access to court records or to real or personal property information.

(3) 'Information broker' means any person or entity who, for monetary fees or dues, engages in whole or in part in the business of collecting, assembling, evaluating, compiling, reporting, transmitting, transferring, or communicating information concerning individuals for the primary purpose of furnishing personal information to nonaffiliated third parties, but does not include any governmental agency whose records are maintained primarily for traffic safety, law enforcement, or licensing purposes.

(4) 'Notice' means:

(A) Written notice;

(B) Telephone notice;

(C) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code; or

(D) Substitute notice, if the information broker or data collector demonstrates that the cost of providing notice would exceed $50,000.00, that the affected class of individuals to be notified exceeds 100,000, or that the information broker or data collector does not have sufficient contact information to provide written or electronic notice to such individuals. Substitute notice shall consist of all of the following:

(i) E-mail notice, if the information broker or data collector has an e-mail address for the individuals to be notified;

(ii) Conspicuous posting of the notice on the information broker's or data collector's website page, if the information broker or data collector maintains one; and

(iii) Notification to major state-wide media.

Notwithstanding any provision of this paragraph to the contrary, an information broker or data collector that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this article shall be deemed to be in compliance with the notification requirements of this article if it notifies the individuals who are the subjects of the notice in accordance with its policies in the event of a breach of the security of the system.

(5) 'Person' means any individual, partnership, corporation, limited liability company, trust, estate, cooperative, association, or other entity. The term 'person' as used in this article shall not be construed to require duplicative reporting by any individual,

corporation, trust, estate, cooperative, association, or other entity involved in the same transaction.

(6) 'Personal information' means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted:

(A) Social security number;

(B) Driver's license number or state identification card number;

(C) Account number, credit card number, or debit card number, if circumstances exist wherein such a number could be used without additional identifying information, access codes, or passwords;

(D) Account passwords or personal identification numbers or other access codes; or

(E) Any of the items contained in subparagraphs (A) through (D) of this paragraph when not in connection with the individual's first name or first initial and last name, if the information compromised would be sufficient to perform or attempt to perform identity theft against the person whose information was compromised.

The term 'personal information' does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records."

SECTION 3.

Said article is further amended by revising Code Section 10-1-912, relating to notification required upon breach of security regarding personal information, as follows:

"10-1-912.

(a) Any information broker or data collector that maintains computerized data that includes personal information of individuals shall give notice of any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of this state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The notice shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (c) of this Code section, or with any measures necessary to determine the scope of the breach and restore the reasonable integrity, security, and confidentiality of the data system.

(b) Any person or business that maintains computerized data on behalf of an information broker or data collector that includes personal information of individuals that the person or business does not own shall notify the information broker or data collector of any breach of the security of the system within 24 hours following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(c) The notification required by this Code section may be delayed if a law enforcement agency determines that the notification will compromise a criminal investigation. The

notification required by this Code section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(d) In the event that an information broker or data collector discovers circumstances requiring notification pursuant to this Code section of more than 10,000 residents of this state at one time, the information broker or data collector shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nation-wide basis, as defined by 15 U.S.C. Section 1681a, of the timing, distribution, and content of the notices."

SECTION 4.

Article 8 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to the offense of identity fraud, is amended by revising Code Section 16-9-121, relating to the elements of the offense, as follows:

"16-9-121.

(a) A person commits the offense of identity fraud when he or she willfully and fraudulently:

(1) Without authorization or consent, uses or possesses with intent to fraudulently use, identifying information concerning an individual;

(2) Uses identifying information of an individual under 18 years old over whom he or she exercises custodial authority;

(3) Uses or possesses with intent to fraudulently use, identifying information concerning a deceased individual;

(4) Creates, uses, or possesses with intent to fraudulently use, any counterfeit or fictitious identifying information concerning a fictitious individual with intent to use such counterfeit or fictitious identification information for the purpose of committing or facilitating the commission of a crime or fraud on another person; or

(5) Without authorization or consent, creates, uses, or possesses with intent to fraudulently use, any counterfeit or fictitious identifying information concerning a real individual with intent to use such counterfeit or fictitious identification information for the purpose of committing or facilitating the commission of a crime or fraud on another person.

(b) A person commits the offense of identity fraud by receipt of fraudulent identification information when he or she willingly accepts for identification purposes identifying information which he or she knows to be fraudulent, stolen, counterfeit, or fictitious. In any prosecution under this subsection it shall not be necessary to show a conviction of the principal thief, counterfeiter, or fraudulent user.

(c) The offenses created by this Code section shall not merge with any other offense.

(d) This Code section shall not apply to a person under the age of 21 who uses a fraudulent, counterfeit, or other false identification card for the purpose of obtaining entry into a business establishment or for purchasing items which he or she is not of legal age to purchase."

SECTION 5.

Said article is further amended by adding a new Code section as follows:

"16-9-125.1.

(a) A person who has learned or reasonably believes that he or she has been the victim of identity fraud may contact the local law enforcement agency with jurisdiction over his or her actual residence for the purpose of making an incident report. The law enforcement agency having jurisdiction over the complainant's residence shall make a report of the complaint and provide the complainant with a copy of the report. Where jurisdiction for the investigation and prosecution of the complaint lies with another agency, the law enforcement agency making the report shall forward a copy to the agency having such jurisdiction and shall advise the complainant that the report has been so forwarded.

(b) Nothing in this Code section shall be construed so as to interfere with the discretion of a law enforcement agency to allocate resources for the investigation of crimes. A report created pursuant to this Code section is not required to be counted as an open case file."

SECTION 6.

Said article is further amended by revising Code Section 16-9-126, relating to penalties for violations, as follows:

"16-9-126.

(a) A violation of this article, other than a violation of Code Section 16-9-122, shall be punishable by imprisonment for not less than one nor more than ten years or a fine not to exceed $100,000.00, or both. Any person who commits such a violation for the second or any subsequent offense shall be punished by imprisonment for not less than three nor more than 15 years, a fine not to exceed $250,000.00, or both.

(b) A violation of this article which does not involve the intent to commit theft or appropriation of any property, resource or other thing of value that is committed by a person who is less than 21 years of age, shall be punishable by imprisonment for not less than one nor more than three years or a fine not to exceed $ 5,000.00, or both.

(c) Any person found guilty of a violation of this article may be ordered by the court to make restitution to any consumer victim or any business victim of such fraud.

(d) Each violation of this article shall constitute a separate offense.

(e) Upon a conviction of a violation of this article, the court may issue any order necessary to correct a public record that contains false information resulting from the actions which resulted in the conviction."

SECTION 7.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and Section 4 shall apply to all offenses occurring on or after such date.

SECTION 8.

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

Approved May 24, 2007.

CORPORATIONS – FILING FEES; CERTIFICATES OF CONVERSION.

No. 242 (Senate Bill No. 234).

AN ACT

To amend Title 14 of the Official Code of Georgia Annotated, relating to corporations, partnerships, and associations, so as to provide for the Secretary of State to collect a filing fee for certificates of conversion filed when a Georgia corporation, Georgia limited partnership, or Georgia limited liability company converts to a foreign corporation, foreign limited partnership, or foreign limited liability company, respectively; to provide that a certificate of conversion be filed with the Secretary of State to evidence a conversion; to allow a copy of a certificate of conversion be filed with the clerk of the superior court in any county in which a converting entity owns property; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 14 of the Official Code of Georgia Annotated, relating to corporations, partnerships, and associations, is amended by revising Code Section 14-2-122, relating to filing fees and penalties, as follows:

"14-2-122.

The Secretary of State shall collect the following fees and penalties when the documents described in this Code section are delivered to him or her for filing:

Document	Fee
(1) Articles of incorporation	$ 100.00
(2) Application for certificate of authority	225.00
(3) Annual registration	30.00
(4) Agent's statement of resignation	No fee

(5) Certificate of judicial dissolution. . . . . No fee

(6) Application for reservation of a corporate name. 25.00

(7) Civil penalty for a foreign corporation transacting business in this state without a certificate of authority. 500.00

(8) Statement of change of address of registered agent...$5.00 per corporation but not less than. 20.00

(9) Application for reinstatement. 100.00

(10) Certificate of conversion. 95.00

(11) Any other document required or permitted to be filed by this chapter. . . 20.00"

SECTION 2.

Said title is further amended by revising Code Section 14-2-1109.3, relating to conversion to foreign limited liability company, foreign limited partnership, or foreign corporation, by adding a new subsections to read as follows:

"(i) After a plan of conversion is approved by the shareholders, the corporation shall deliver to the Secretary of State for filing a certificate of conversion setting forth:

(1) The name of the corporation;

(2) The name and jurisdiction of the entity to which the corporation shall be converted;

(3) The effective date, or the effective date and time, of such conversion if later than the date and time the certificate of conversion is filed;

(4) A statement that the plan of conversion has been adopted as required by subsection (c) of this Code section;

(5) A statement that the authority of its registered agent to accept service on its behalf is revoked as of the effective time of such conversion and that the Secretary of State is irrevocably appointed as the agent for service of process on the resulting entity in any proceeding to enforce an obligation of the corporation arising prior to the effective time of such conversion;

(6) A mailing address to which a copy of any process served on the Secretary of State under paragraph (5) of this subsection may be mailed as provided in subsection (j) of this Code section; and

(7) A statement that the Secretary of State shall be notified of any change in the resulting entity's mailing address.

(j) Upon the conversion's taking effect, the resulting entity is deemed to appoint the Secretary of State as its agent for service of process in a proceeding to enforce any of its obligations arising prior to the effective time of such conversion. Any party that serves process upon the Secretary of State in accordance with this subsection also shall mail a copy of the process to the chief executive officer, chief financial officer, or the secretary

of the resulting entity, or a person holding a comparable position, at the mailing address provided in subsection (i) of this Code section.

(k) A converting corporation pursuant to this Code section may file a copy of its certificate of conversion, certified by the Secretary of State, in the office of the clerk of the superior court of the county where any real property owned by such corporation is located and record such certified copy of the certificate of conversion in the books kept by such clerk for recordation of deeds in such county with the corporation indexed as the grantor and the foreign entity indexed as the grantee. No real estate transfer tax otherwise required by Code Section 48-6-1 shall be due with respect to recordation of such certificate of conversion."

SECTION 3.

Said title is further amended by revising Code Section 14-9-206.8, relating to conversion to foreign limited liability company, foreign limited partnership, or foreign corporation, by adding a new subsections to read as follows:

"(g) After a plan of conversion is approved by the partners, the limited partnership shall deliver to the Secretary of State for filing a certificate of conversion setting forth:

(1) The name of the limited partnership;

(2) The name and jurisdiction of the entity to which the limited partnership shall be converted;

(3) The effective date, or the effective date and time, of such conversion if later than the date and time the certificate of conversion is filed;

(4) A statement that the plan of conversion has been approved as required by subsection (c) of this Code section;

(5) A statement that the authority of its registered agent to accept service on its behalf is revoked as of the effective time of such conversion and that the Secretary of State is irrevocably appointed as the agent for service of process on the resulting entity in any proceeding to enforce an obligation of the limited partnership arising prior to the effective time of such conversion;

(6) A mailing address to which a copy of any process served on the Secretary of State under paragraph (5) of this subsection may be mailed as provided in subsection (h) of this Code section; and

(7) A statement that the Secretary of State shall be notified of any change in the resulting entity's mailing address.

(h) Upon the conversion's taking effect, the resulting entity is deemed to appoint the Secretary of State as its agent for service of process in a proceeding to enforce any of its obligations arising prior to the effective time of such conversion. Any party that serves process upon the Secretary of State in accordance with this subsection also shall mail a copy of the process to the chief executive officer, chief financial officer, or the secretary of the resulting entity, or a person holding a comparable position, at the mailing address provided in subsection (g) of this Code section.

(i) A converting limited partnership pursuant to this Code section may file a copy of its certificate of conversion, certified by the Secretary of State, in the office of the clerk of the superior court of the county where any real property owned by such limited partnership is located and record such certified copy of the certificate of conversion in the books kept by such clerk for recordation of deeds in such county with the limited partnership indexed as the grantor and the foreign entity indexed as the grantee. No real estate transfer tax otherwise required by Code Section 48-6-1 shall be due with respect to recordation of such certificate of conversion."

SECTION 4.

Said title is further amended by revising Code Section 14-9-1101, relating to fees, as follows:

"14-9-1101.

The Secretary of State shall charge and collect for:

(1) Filing a certificate of limited partnership	$ 100.00
(2) Filing a registration of a foreign limited partnership	225.00
(3) Filing an annual registration	30.00
(4) Agent's statement of resignation	No fee
(5) Statement of change of address of registered agent or registered office $5.00 per limited partnership but not less than	20.00
(6) Filing of an amendment to a certificate of limited partnership for the purpose of becoming a limited liability partnership	100.00
(7) Certificate of election to become a limited partnership	80.00
(8) Certificate of conversion	95.00
(9) Application for reservation of a name	25.00
(10) Filing any other document required or permitted pursuant to this chapter	20.00"

SECTION 5.

Said title is further amended by revising Code Section 14-11-906, relating to election by a limited liability company to become a foreign limited liability company, a foreign limited partnership, or a foreign corporation and certificate of authority, so as to add new subsections to read as follows:

"(g) After a plan of conversion is approved by the members, the limited liability company shall deliver to the Secretary of State for filing a certificate of conversion setting forth:

(1) The name of the limited liability company;

(2) The name and jurisdiction of the entity to which the limited liability company shall be converted;

(3) The effective date, or the effective date and time, of such conversion if later than the date and time the certificate of conversion is filed;

(4) A statement that the plan of conversion has been approved as required by subsection (c) of this Code section;

(5) A statement that the authority of its registered agent to accept service on its behalf is revoked as of the effective time of such conversion and that the Secretary of State is irrevocably appointed as the agent for service of process on the resulting entity in any proceeding to enforce an obligation of the limited liability company arising prior to the effective time of such conversion, including the rights, if any, of dissenting members;

(6) A mailing address to which a copy of any process served on the Secretary of State under paragraph (5) of this subsection may be mailed; and

(7) A statement that the Secretary of State shall be notified of any change in the resulting entity's mailing address.

(h) Upon the conversion's taking effect, the resulting entity is deemed:

(1) To appoint the Secretary of State as its agent for service of process in a proceeding to enforce any of its obligations arising prior to the effective time of such conversion, including the rights, if any, of dissenting members; and

(2) To agree that it will promptly pay to any dissenting members the amount, if any, to which such member is entitled under Article 10 of this chapter.

(i) A converting limited liability company pursuant to this Code section may file a copy of its certificate of conversion, certified by the Secretary of State, in the office of the clerk of the superior court of the county where any real property owned by such limited liability company is located and record such certified copy of the certificate of conversion in the books kept by such clerk for recordation of deeds in such county with the limited liability company indexed as the grantor and the foreign entity indexed as the grantee. No real estate transfer tax otherwise required by Code Section 48-6-1 shall be due with respect to recordation of such certificate of conversion."

SECTION 6.

Said title is further amended by revising subsection (a) of Code Section 14-11-1101, relating to filing fees and penalties, as follows:

"(a) The Secretary of State shall collect the following fees when the documents described below are delivered to the Secretary of State for filing pursuant to this chapter:

Document	Fee
(1) Articles of organization	$ 100.00
(2) Articles of amendment	20.00
(3) Articles of merger	20.00

(4) Certificate of election under Code Section 14-11-212 (together with articles of organization). 95.00

(5) Application for certificate of authority to transact business. 225.00

(6) Statement of commencement of winding up. 20.00

(7) Certificate of termination. 20.00

(8) Articles of correction. 20.00

(9) Application for reservation of a name. 25.00

(10) Statement of change of registered office or registered agent...$5.00 per limited liability company (foreign or domestic), but not less than. 20.00

(11) Registered agent's statement of resignation pursuant to subsection (d) of Code Section 14-11-209 or subsection (d) of Code Section 14-11-703. . . . . No fee

(12) Certificate of judicial dissolution. . . . . No fee

(13) Annual registration (foreign or domestic). 30.00

(14) Reinstatement fee. 100.00

(15) Any other document required or permitted to be filed by this chapter. . . 20.00

(16) Certificate of conversion. . . . . 95.00"

SECTION 7.

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

Approved May 24, 2007.

PROFESSIONS – ADVANCED PRACTICE REGISTERED NURSE.

No. 243 (Senate Bill No. 222).

AN ACT

To amend Article 1 of Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to the "Georgia Registered Professional Nurse Practice Act," so as to revise the

definition of "advanced practice registered nurse"; to revise language relating to the use of the title by a licensed registered nurse or advanced practice registered nurse; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to the "Georgia Registered Professional Nurse Practice Act," is amended in Code Section 43-26-3, relating to definitions, by revising paragraph (1.1) as follows:

"(1.1) 'Advanced practice registered nurse' means a registered professional nurse licensed under this chapter who is recognized by the board as having met the requirements established by the board to engage in advanced nursing practice and who holds a master's degree or other graduate degree approved by the board and national board certification in his or her area of speciality, or a person who was recognized as an advanced practice registered nurse by the board on or before June 30, 2006. This paragraph shall not be construed to require a certified registered nurse anesthetist who graduated from an approved nurse anesthetist educational program prior to January 1, 1999, to hold a master's degree or other graduate degree."

SECTION 2.

Said article is further amended in Code Section 43-26-6, relating to the use of the title by a licensed registered nurse or advanced practice registered nurse, by revising subsection (d) as follows:

"(d) Any person who is licensed as a registered professional nurse shall identify that he or she is so licensed by displaying either the title 'registered professional nurse' or 'registered nurse,' the abbreviation 'R.N.,' the title 'advanced practice registered nurse,' or the abbreviation 'A.P.R.N.' on a name tag or other similar form of identification during times when such person is providing direct patient care. An advanced practice registered nurse shall meet the identification requirements of this subsection by displaying the title or abbreviation of his or her area of specialization."

SECTION 3.

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

Approved May 24, 2007.

COMMERCE – WAREHOUSEMEN; PRINTERS; BOND REQUIREMENTS.

No. 244 (Senate Bill No. 220).

AN ACT

To revise certain provisions relative to warehouses regulated by the Department of Agriculture; to amend Chapter 4 of Title 10 of the Official Code of Georgia Annotated, relating to warehousemen, so as to change certain provisions relating to agricultural warehouse receipt requirements, obtaining printed forms, and use of electronic receipts; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 4 of Title 10 of the Official Code of Georgia Annotated, relating to warehousemen, is amended by revising subsection (b) of Code Section 10-4-19, relating to agricultural warehouse receipt requirements, obtaining printed forms, and use of electronic receipts, as follows:

"(b) To regulate receipts issued by warehousemen licensed under this article, receipts issued by such warehousemen shall be obtained by warehousemen from approved printers and delivered through the Department of Agriculture at the expense of the warehousemen. Orders of the warehousemen for receipts from printers approved by the Commissioner shall be forwarded to the Department of Agriculture for approval as to the form and source of supply of the receipts. To regulate further the receipts issued under this article, the printer shall transmit all receipts printed for a warehouseman to the Department of Agriculture, so as to enable the Commissioner to maintain an accurate record of the numbers of such receipts and the quantity delivered. It shall be a violation of this article for any warehouseman to issue any warehouse receipt except upon receipts obtained as provided in this Code section. It shall be unlawful for any printer to print any warehouse receipt for any warehouseman licensed under this article without the approval of the Commissioner."

SECTION 2.

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

Approved May 24, 2007.

FOOD – PRESCRIPTION DRUGS; MAIL OR COMMON CARRIERS; PRESCRIPTION MEDICATION INTEGRITY ACT.

No. 245 (Senate Bill No. 205).

AN ACT

To amend Article 5 of Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to prescription drugs, so as to provide that the use of the mails or other common carriers to sell, distribute, and deliver a prescription drug directly to a patient under certain circumstances shall not be considered grounds for sanctioning the license of a pharmacist; to amend Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and pharmacies, so as to enact the "Prescription Medication Integrity Act"; to provide for a short title; to provide for definitions; to provide for pedigrees for prescription drugs; to provide for contingent effectiveness; to provide for enforcement; to provide for prohibited acts; to provide for penalties; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 5 of Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to prescription drugs, is amended in Code Section 26-4-60, relating to grounds for suspension, revocation, or refusal to grant licenses by the State Board of Pharmacy, by revising paragraph (11) of subsection (a) as follows:

"(11) Regularly employing the mails or other common carriers to sell, distribute, and deliver a drug which requires a prescription directly to a patient; provided, however, that this provision shall not prohibit the use of the mails or other common carriers to sell, distribute, and deliver a prescription drug directly to:

(A) A patient or directly to a patient's guardian or caregiver or a physician or physician acting as the patient's agent for whom the prescription drug was prescribed if:

(i) Such prescription drugs are prescribed for complex chronic, terminal, or rare conditions;

(ii) Such prescription drugs require special administration, comprehensive patient training, or the provision of supplies and medical devices or have unique patient compliance and safety monitoring requirements;

(iii) Due to the prescription drug's high monetary cost, short shelf life, special manufacturer specified packaging and shipping requirements or instructions which require temperature sensitive storage and handling, limited availability or distribution, or other factors, the drugs are not carried in the regular inventories of retail

pharmacies such that the drugs could be immediately dispensed to multiple retail walk-in patients;

(iv) Such prescription drug has an annual retail value to the patient of more than $10,000.00;

(v) The patient receiving the prescription drug consents to the delivery of the prescription drug via expedited overnight common carrier and designates the specialty pharmacy to receive the prescription drug on his or her behalf;

(vi) The specialty pharmacy utilizes, as appropriate and in accordance with standards of the manufacturer, United States Pharmacopeia, and Federal Drug Administration and other standards adopted by the State Board of Pharmacy, temperature tags, time temperature strips, insulated packaging, or a combination of these; and

(vii) The specialty pharmacy establishes and notifies the enrollee of its policies and procedures to address instances in which medications do not arrive in a timely manner or in which they have been compromised during shipment and to assure that the pharmacy replaces or makes provisions to replace such drugs; or

(B) An institution or to sell, distribute, or deliver prescription drug refills, upon his or her request, to an enrollee in a health benefits plan of a group model health maintenance organization or its affiliates by a pharmacy which is operated by that same group model health maintenance organization and licensed under Code Section 26-4-110. Any pharmacy using the mails or other common carriers to dispense prescriptions pursuant to this paragraph shall comply with the following conditions:

(i) The pharmacy shall provide an electronic, telephonic, or written communications mechanism which reasonably determines whether the medications distributed by the mails or other common carriers have been received by the enrollee and through which a pharmacist employed by the group model health maintenance organization or a pharmacy intern under his or her direct supervision is enabled to offer counseling to the enrollee as authorized by and in accordance with his or her obligations under Code Section 26-4-85, unless the enrollee refuses such consultation or counseling pursuant to subsection (e) of such Code section. In addition, the enrollee shall receive information indicating what he or she should do if the integrity of the packaging or medication has been compromised during shipment;

(ii) In accordance with clinical and professional standards, the State Board of Pharmacy shall promulgate a list of medications which may not be delivered by the mails or other common carriers. However, until such list is promulgated, the group model health maintenance organization shall not deliver by use of the mails or other common carriers Class II controlled substance medications, medications which require refrigeration, chemotherapy medications deemed by the federal Environmental Protection Agency as dangerous, medications in suppository form, and other medications which, in the professional opinion of the dispensing pharmacist, may be clinically compromised by distribution through the mail or other common carriers;

(iii) The pharmacy shall utilize, as appropriate and in accordance with standards of the manufacturer, United States Pharmacopeia, and Federal Drug Administration and other standards adopted by the State Board of Pharmacy, temperature tags, time temperature strips, insulated packaging, or a combination of these; and

(iv) The pharmacy shall establish and notify the enrollee of its policies and procedures to address instances in which medications do not arrive in a timely manner or in which they have been compromised during shipment and to assure that the pharmacy replaces or makes provisions to replace such drugs.

For purposes of subparagraph (B) of this paragraph, the term 'group model health maintenance organization' means a health maintenance organization that has an exclusive contract with a medical group practice to provide or arrange for the provision of substantially all physician services to enrollees in health benefits plans of the health maintenance organization;"

SECTION 2.

Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and pharmacies, is amended by inserting a new article at the end of such chapter to read as follows:

"ARTICLE 12

26-4-200.

This article shall be known and may be cited as the 'Prescription Medication Integrity Act.'

26-4-201.

As used in this article, the term:

(1) 'Authenticate' means to affirmatively verify before any wholesale distribution of a prescription drug occurs that each transaction listed on the pedigree has occurred.

(2) 'Authorized distributor of record' means a distributor with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drugs.

(3) 'Board' means the State Board of Pharmacy.

(4) 'Broker' has the same meaning as a third party logistics provider.

(5) 'Chain pharmacy warehouse' means a physical location for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of such drugs to a group of chain pharmacies that have the same common ownership or control.

(6) 'Co-licensed pharmaceutical products' means pharmaceutical products:

(A) That have been approved by the federal Food and Drug Administration; and

(B) Concerning which two or more parties have the right to engage in a business activity or occupation concerning the pharmaceutical products.

(7) 'Co-licensee' means a party to a co-licensed pharmaceutical product.

(8) 'Distribute' means to deliver a drug or device other than by administering or dispensing.

(9) 'Drop shipment arrangement' means the physical shipment of a prescription from a manufacturer, that manufacturer's co-licensee, that manufacturer's third-party logistics provider, or that manufacturer's authorized distributor of record directly to a chain pharmacy warehouse, pharmacy buying cooperative warehouse, pharmacy, or other persons authorized under law to dispense or administer prescription drugs but wherein the sale and title for the prescription drug passes between a wholesale drug distributor and the party that directly receives the prescription drug. In order to be considered part of the normal distribution channel and participate in a drop shipment as described in this paragraph, the wholesale drug distributor must be an authorized distributor of record.

(10) 'Facility' means a facility of a wholesale distributor where prescription drugs are stored, handled, repackaged, or offered for sale.

(11) 'Manufacturer' means a person licensed or approved by the federal Food and Drug Administration ('FDA') to engage in the manufacture of drugs or devices, consistent with the FDA definition of 'manufacturer' under the regulations and interpreted guidances implementing the Prescription Drug Marketing Act.

(12) 'Manufacturer's exclusive distributor' means an entity that contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services for a manufacturer and takes title to that manufacturer's prescription drug. To be considered part of the normal distribution channel, a manufacturer's exclusive distribution must be an authorized distributor of record.

(13) 'Normal distribution channel' means a chain of custody for a prescription drug, excluding all devices and veterinary prescription drugs, that goes directly or by drop shipment from a manufacturer of the prescription drug, or from that manufacturer to that manufacturer's co-licensed partner, or from that manufacturer to that manufacturer's third-party logistics provider, or from that manufacturer to that manufacturer's exclusive distributor, to:

(A) Either a pharmacy or to other designated persons authorized by law to dispense or administer such drug;

(B) An authorized distributor or record, and then to either a pharmacy, or to other designated persons authorized by law to dispense or administer such drug;

(C) An authorized distributor of record to one other authorized distributor of record to an office based health care practitioner authorized by law to dispense or administer such drug to a patient;

(D) An authorized distributor of record to a pharmacy warehouse or other entity that redistributes by intracompany sale to a pharmacy or other designated persons authorized to dispense or administer the drug;

(E) A pharmacy warehouse or other entity that redistributes by intracompany sale to a pharmacy or other designated persons authorized to dispense or administer the drug; or

(F) Another entity as prescribed by the board's regulations.

(14) 'Ongoing relationship' means an association that exists when a wholesale drug distributor, including any member of its affiliated group, as defined in Section 1504 of the Internal Revenue Code, of which the wholesale drug distributor is a member:

(A) Is listed on the manufacturer's list of authorized distributors of record, which is updated by the manufacturer on no less than a monthly basis; or

(B) Has a written agreement currently in effect with the manufacturer evidencing such ongoing relationship.

(15) 'Pedigree' means a document or electronic file containing information that records each distribution of any given prescription drug.

(16) 'Pharmacy buying cooperative warehouse' means a permanent physical location that acts as a central warehouse for drugs and from which sales of drugs are made to a group of pharmacies that are member owners of the buying cooperative operating the warehouse. Pharmacy buying cooperative warehouses must be licensed as wholesale distributors.

(17) 'Prescription drug' means any drug (including any biological product, except for blood and blood components intended for transfusion or biological products that are also medical devices) required by federal law (including federal regulation) to be dispensed only by a prescription, including finished dosage forms and bulk drug substances subject to section 503(b) of the federal Food, Drug and Cosmetic Act ('FFDCA').

(18) 'Repackage' means repackaging or otherwise changing the container, wrapper, or labeling to further the distribution of a prescription drug; provided, however, that this shall not apply to pharmacists in the dispensing of prescription drugs to the patient.

(19) 'Repackager' means a person who repackages.

(20) 'Third-party logistics provider' means an entity that provides or coordinates warehousing, distribution, or other services on behalf of a manufacturer but does not take title to a drug or have general responsibility to direct the sale or other disposition of the drug. To be considered part of the normal distribution channel, a third party logistics provider must be an authorized distributor of record.

(21) 'Wholesale distributor' means any person engaged in wholesale distribution of drugs, including but not limited to repackagers; own label distributors; private label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses and wholesale drug warehouses; independent wholesale drug traders; and retail and hospital pharmacies and chain pharmacy warehouses that conduct wholesale distributions. This term shall not include manufacturers.

(22) 'Wholesale distribution' shall not include:

(A) Intracompany sales of prescription drugs, meaning any transaction or transfer between any division, subsidiary, parent, or affiliated or related company under common ownership or control of a corporate entity, except that nothing contained herein shall be construed to prohibit the board from requiring that other records of these

transactions shall be kept in accordance with law and regulation not found in this article;

(B) The sale, purchase, distribution, trade, or transfer of a prescription drug or offer to sell, purchase, distribute, trade, or transfer a prescription drug for emergency medical reasons including transfers of a prescription drug from retail pharmacy to retail pharmacy, except that nothing contained herein shall be construed to prohibit the board from requiring that other records of these transactions shall be kept in accordance with law and regulation not found in this article;

(C) The distribution of prescription drug samples by manufacturers' representatives;

(D) Prescription drug returns when conducted by a retail pharmacy or chain pharmacy warehouse, by a hospital, health care entity, or charitable institution in accordance with 21 C.F.R. Section 203.23, or by any designated persons authorized by law to dispense or administer the prescription drug except in cases where a pedigree is already required under the provisions of this article, in which case any return of that prescription drug to a wholesaler or manufacturer shall be subject to the provisions of Code Section 26-4-202;

(E) The sale of minimal quantities of prescription drugs by retail pharmacies to licensed practitioners for office use, except that nothing contained herein shall be construed to prohibit the board from requiring that other records of these transactions shall be kept in accordance with law and regulation not found in this article;

(F) Retail pharmacies' delivery of prescription drugs to a patient or patient's agent pursuant to the lawful order of a licensed practitioner;

(G) The delivery of, or offer to deliver, a prescription drug by a common carrier solely in the common carrier's usual course of business of transporting prescription drugs, and such common carrier does not store, warehouse, or take legal ownership of the prescription drug;

(H) The sale or transfer from a retail pharmacy, pharmacy buying cooperative warehouse, or chain pharmacy warehouse of expired, damaged, returned, or recalled prescription drugs to the original manufacturer, originating wholesale distributor, or to a third party returns processor, to the extent permitted by federal rule, regulation, or law; or

(I) The sale, transfer, merger, or consolidation of all or part of the business of a pharmacy or pharmacies from or with another pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets.

26-4-202.

(a)(1) Each person who is engaged in wholesale distribution of prescription drugs shall establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of the prescription drugs. These records shall include pedigrees for all prescription drugs that leave or have ever left the normal distribution channel in accordance with rules and regulations adopted by the board.

(2) A retail pharmacy or chain pharmacy warehouse shall comply with the requirements of this Code section only if the retail pharmacy or chain pharmacy warehouse engages in wholesale distribution of prescription drugs.

(3) The board shall conduct a study to be completed no later than July 1, 2009, which shall include consultation with manufacturers, distributors, and pharmacies responsible for the sale and distribution of prescription drug products in this state. Based on the results of the study, the board shall establish a mandated implementation date for electronic pedigrees which shall be no sooner than December 31, 2011, and may be extended by the board in one year increments if it appears the technology is not universally available across the entire prescription pharmaceutical supply; provided, however, that no provision of this article shall be effective until such time as the General Assembly appropriates reasonable funds for administration of this subsection. Effective at a date established by the board, pedigrees may be implemented through an approved and readily available system based on electronic track and trace pedigree technology. This electronic tracking system will be deemed to be readily available for use on a wide scale across the entire pharmaceutical supply chain which includes manufacturers, wholesale distributors, and pharmacies. Consideration must be given to the large-scale implementation of this technology across the supply chain and the technology must be proven to have no negative impact on the safety and efficacy of the pharmaceutical product.

(b) Each person in possession of a pedigree for a prescription drug who is engaged in the wholesale distribution of a prescription drug, including repackagers but excluding the original manufacturer of the finished form of the prescription drug and any entity engaged in the activities listed in paragraph (9) of Code Section 26-4-201, and who attempts to further distribute that prescription drug shall affirmatively verify before any distribution of a prescription drug occurs that each transaction listed on the pedigree has occurred.

(c) The pedigree shall include all necessary identifying information concerning each sale in the chain of distribution of the product from the manufacturer, to acquisition and sale by any wholesale distributor or repackager, and to final sale to a pharmacy or other person dispensing or administering the prescription drug. At a minimum, the pedigree shall include:

(1) The name, address, telephone number, and, if available, e-mail address of each owner of the prescription drug and each wholesale distributor of the prescription drug;

(2) The name and address of each location from which the prescription drug was shipped, if different from the owner's;

(3) Transaction dates;

(4) Certification that each recipient, excluding retail or hospital pharmacies, has authenticated the pedigree;

(5) The name of the prescription drug;

(6) Dosage form and strength of the prescription drug;

(7) Size of the container;

(8) Number of containers;
(9) Lot number of the prescription drug; and
(10) The name of the manufacturer of the finished dosage form.

(d) Each pedigree shall be:
(1) Maintained by the wholesale distributor at its licensed location, unless given written authorization from the board to do otherwise, for three years from the date of sale or transfer; and
(2) Available for inspection, copying, or use at the licensed location upon a verbal request by the board or its designee.

(e) The board shall adopt rules and regulations, including a standard form, relating to the requirements of this article no later than 90 days after the effective date of this article.

(f) Pharmacies licensed pursuant to this chapter shall not be required to possess or maintain any pedigree issued pursuant to this Code section.

26-4-203.

(a) If the board finds that there is a reasonable probability that:
(1) A wholesale distributor, other than a manufacturer, has:
(A) Violated a provision of this article; or
(B) Falsified a pedigree, provided a falsified pedigree, or sold, distributed, transferred, manufactured, repackaged, handled, or held a counterfeit prescription drug intended for human use;
(2) The prescription drug at issue in subparagraph (B) of paragraph (1) of this subsection could cause serious, adverse health consequences or death; and
(3) Other procedures would result in unreasonable delay,

the board shall issue an order requiring the appropriate person including the distributors or retailers of the prescription drug to immediately cease distribution of the prescription drug in or to this state.

(b) An order under subsection (a) of this Code section shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than ten calendar days after the date of the issuance of the order, on the actions required by the order. If, after such a hearing, the board determines that inadequate grounds exist to support the actions required by the order, the board shall vacate the order.

26-4-204.

It shall be unlawful for a person to perform or cause the performance of or aid and abet any of the following acts in this state:
(1) Selling, distributing, or transferring a prescription drug to a person that is not authorized to receive the prescription drug under the law of the jurisdiction in which the person receives the prescription drug;
(2) Failing to maintain or provide pedigrees as required by the board;
(3) Failing to obtain, transfer, or authenticate a pedigree as required by the board;

(4) Providing the board or any of its representatives or any federal official with false or fraudulent records, including, but not limited to falsified pedigrees, or making false or fraudulent statements regarding any matter within the provisions of this article;
(5) Obtaining or attempting to obtain a prescription drug by fraud, deceit, or misrepresentation or engaging in misrepresentation or fraud in the distribution of a prescription drug; and
(6) Except for the wholesale distribution by manufacturers of a prescription drug that has been delivered into commerce pursuant to an application approved under federal law by the Food and Drug Administration, the manufacturing, repackaging, selling, transferring, delivering, holding, or offering for sale of any prescription drug that is adulterated, misbranded, counterfeit, suspected of being counterfeit, or has otherwise been rendered unfit for distribution.

26-4-205.
(a) Notwithstanding Code Section 26-4-115, any person who engages without knowledge in the wholesale distribution of prescription drugs, including providing a falsified pedigree or other records, in violation of this article may be fined not more than $10,000.00.
(b) If a person engages in wholesale distribution of prescription drugs in violation of this article, including providing a falsified pedigree or other records, and acts in a grossly negligent manner in violation of this article, the person may be punished by imprisonment for not more than 15 years, fined not more than $50,000.00, or both.
(c) Notwithstanding Code Section 26-4-115, any person who knowingly engages in wholesale distribution of prescription drugs in violation of this article, including providing a falsified pedigree or other records, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not more than 25 years, by fine not to exceed $500,000.00, or both."

SECTION 3.

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

Approved May 24, 2007.

HEALTH – BOARD FOR THE DISTRIBUTION OF CADAVERS.

No. 246 (Senate Bill No. 204).

AN ACT

To amend Article 2 of Chapter 21 of Title 31 of the Official Code of Georgia Annotated, relating to disposition of unclaimed dead bodies, so as to change certain provisions relating to the board for distribution and delivery of dead bodies; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 21 of Title 31 of the Official Code of Georgia Annotated, relating to disposition of unclaimed dead bodies, is amended by revising Code Section 31-21-20 to read as follows:

"31-21-20.

The academic deans of medical, osteopathic medical, and dental colleges or a representative appointed by the president of such schools incorporated under the laws of this state or otherwise operating in this state with authorization from the Nonpublic Postsecondary Education Commission shall constitute the Board for the Distribution of Cadavers to expedite the distribution and delivery of dead bodies described in Code Section 31-21-21 to and among such institutions as are entitled thereto. This board shall have power to establish rules and regulations for its governance and to appoint and remove its officers and shall keep minutes of its transactions. Records shall be kept, under its direction, of all bodies received and distributed, both from within and without this state, and of the persons or institutions to whom they may be distributed, which records shall be open at all times to the inspection of members of this board, any district attorney, or prosecuting attorney of any city or state court. The board shall appoint a member of the board to be chairperson, and such member shall call at least one meeting per year to carry out the responsibilities of the board. For the purposes of this article, the term 'board' shall mean the Board for the Distribution of Cadavers."

SECTION 2.

Said article is further amended by revising Code Section 31-21-25 to read as follows:

"31-21-25.

No school or college shall be allowed or permitted to receive any body or bodies described in Code Section 31-21-21 until a bond shall have been given to the Department of Human Resources by or in behalf of the school or college by its authorized officers, to be approved

by the clerk of the superior court of the county in which the school or college is situated and to be filed in the office of such clerk. The bond shall be in the sum of $5,000.00 and shall be conditioned that the body or bodies received thereafter by the school or college shall be used only in the manner specified in this article and solely for the promotion of medical science in this state. Actions thereon shall be in the name of the Department of Human Resources, and any sums recovered shall be deposited in the state treasury."

SECTION 3.

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

Approved May 24, 2007.

HEALTH – REVENUE – SAVING THE CURE ACT; KEONE'S LAW; NEWBORN UMBILICAL BLOOD BANK; TAXPAYER CONTRIBUTIONS.

No. 247 (Senate Bill No. 148).

AN ACT

To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to provide a short title; to provide legislative intent and findings; to provide definitions; to create the Newborn Umbilical Cord Blood Bank for postnatal tissue and fluid; to provide for donations and information concerning donations; to provide for the creation of the Georgia Commission for Saving the Cure and the membership, appointment, terms of office, and duties of such commission; to provide for certain funding mechanisms; to amend Article 3 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income tax returns and information, so as to authorize taxpayers to make certain contributions through the income tax payment and refund process; to provide that stem cell research funds shall only be used for certain purposes; to provide an effective date and for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Saving the Cure Act." This Act may also be known and cited as "Keone's Law."

SECTION 2.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding a new Chapter 46 to read as follows:

"CHAPTER 46

31-46-1.

The General Assembly finds and declares that it shall be the public policy of this state to encourage the donation, collection, and storage of stem cells collected from postnatal tissue and fluid and to make such stem cells available for medical research and treatment; to promote principled and ethical stem cell research; and to encourage stem cell research with immediate clinical and medical applications.

31-46-2.

As used in this chapter, the term:

(1) 'Amniotic fluid' means the fluid inside the amnion.

(2) 'Permitted stem cell research' means stem cell research permitted under federal law and Senate Resolution 30, the 'Hope Offered through Principled and Ethical Stem Cell Research Act,' as approved by the United States Senate on April 11, 2007.

(3) 'Placenta' means the organ that forms on the inner wall of the human uterus during pregnancy.

(4) 'Postnatal tissue and fluid' means the placenta, umbilical cord, and amniotic fluid expelled or extracted in connection with the birth of a human being.

(5) 'Stem cells' means unspecialized or undifferentiated cells that can self-renew and have the potential to differentiate into specialized cell types.

(6) 'Umbilical cord' means the gelatinous tissue and blood vessels connecting an unborn human being to the placenta.

31-46-3.

(a) Not later than June 30, 2008, the Georgia Commission for Saving the Cure, as created in Code Section 31-46-4, shall establish a network of postnatal tissue and fluid banks in partnership with one or more public or private colleges or universities, public or private hospitals, nonprofit organizations, or private firms in this state for the purpose of collecting and storing postnatal tissue and fluid. The bank network, which shall be known as the Newborn Umbilical Cord Blood Bank, shall make such tissue and fluid available for medical research and treatment in accordance with this chapter.

(b) The Georgia Commission for Saving the Cure shall develop a program to educate pregnant patients with respect to the banking of postnatal tissue and fluid. The program shall include:

(1) Notice of the existence of the Newborn Umbilical Cord Blood Bank;

(2) An explanation of the difference between public and private banking programs;

(3) The medical process involved in the collection and storage of postnatal tissue and fluid;

(4) The current and potential future medical uses of stored postnatal tissue and fluid;

(5) The benefits and risks involved in the banking of postnatal tissue and fluid; and

(6) The availability and cost of storing postnatal tissue and fluid in public and private umbilical cord blood banks.

(c) Beginning June 30, 2009, all physicians and hospitals in this state shall inform pregnant patients of the full range of options for donation of postnatal tissue and fluids no later than 30 days from the commencement of the patient's third trimester of pregnancy or at the first consultation between the attending physician or the hospital, whichever is later; provided, however, that this subsection shall not be construed to require the participation of any physician who objects to the transfusion or transplantation of blood on the basis of bona fide religious beliefs.

(d) Nothing in this Code section shall be construed to prohibit a person from donating postnatal tissue or fluid to a private blood and tissue bank or storing postnatal tissue or fluid with a private blood and tissue bank.

(e) Any college or university, hospital, nonprofit organization, or private firm participating in the Newborn Umbilical Cord Blood Bank shall have or be subject to an institutional review board which shall be available on an ongoing basis to review the research procedures and conduct of any person desiring to conduct research with postnatal tissue and fluid from the bank. The institutional review board shall establish procedures to protect and ensure the privacy rights of postnatal tissue and fluid donors consistent with applicable federal guidelines.

31-46-4.

(a) There is created the Georgia Commission for Saving the Cure which shall consist of 15 members appointed as provided in this Code section. The commission shall be assigned to the Division of Public Health of the Department of Human Resources for administrative purposes only, as prescribed in Code Section 50-4-3.

(b) Seven members shall be appointed by the Governor. The Governor shall appoint four members to serve initial terms of three years and three members to serve initial terms of two years. Thereafter, successors to such initial appointees shall serve terms of three years. The Governor shall designate one of the persons so appointed to be the chairperson of the commission. If the chief executive officer of the Georgia Research Alliance is not appointed by the Governor or any other appointing authority to serve on the commission, he or she shall serve as an advisory member.

(c) Four members shall be appointed by the Lieutenant Governor or, if the Lieutenant Governor belongs to a political party other than the political party to which a majority of the members of the Senate belong, by the Senate Committee on Assignments. Of these four members, there shall be at least one of each of the following: a physician licensed to practice medicine in this state; a recognized medical ethicist with an accredited degree in

medicine, medical ethics, or theology; a medical researcher in permitted stem cell research; and an attorney with experience in health policy law. The Lieutenant Governor or Senate Committee on Assignments shall appoint two members to serve initial terms of three years and two members to serve initial terms of two years. Thereafter, successors to such initial appointees shall serve terms of three years.

(d) Four members shall be appointed by the Speaker of the House of Representatives. Of these four members, there shall be at least one of each of the following: a physician licensed to practice medicine in this state; a recognized medical ethicist with an accredited degree in medicine, medical ethics, or theology; a medical researcher in permitted stem cell research; and an attorney with experience in health policy law. The Speaker of the House of Representatives shall appoint two members to serve initial terms of three years and two members to serve initial terms of two years. Thereafter, successors to such initial appointees shall serve terms of three years.

(e) Members of the commission shall be eligible to succeed themselves. The initial terms of office shall begin on July 1, 2007. Appointments shall be made by the respective appointing authorities no later than June 15, 2007. Thereafter, appointments of successors shall be made by the respective appointing authority no later than June 1 of the year in which the member's term of office expires. Vacancies shall be filled for the unexpired term by the respective appointing authority.

(f) The commission shall meet at least four times per year at the call of the chairperson or upon the request of at least seven of its members.

(g) The commission shall have the following duties and responsibilities:

(1) To investigate the implementation of this chapter and to recommend any improvements to the General Assembly;

(2) To make available to the public the records of all meetings of the commission and of all business transacted by the commission;

(3) To oversee the operations of the Newborn Umbilical Cord Blood Bank established in Code Section 31-46-3, including approving all fees established to cover administration, collection, and storage costs;

(4) To undertake the Saving the Cure initiative by promoting awareness of the Newborn Umbilical Cord Blood Bank and encouraging donation of postnatal tissue and fluid to the bank;

(5) To ensure the privacy of persons who donate postnatal tissue and fluid to the Newborn Umbilical Cord Blood Bank pursuant to subsection (a) of Code Section 31-46-3 consistent with applicable federal guidelines;

(6) To develop a plan for making postnatal tissue and fluid collected under the Saving the Cure initiative available for medical research and treatment and to ensure compliance with all relevant national practice and quality standards relating to such use;

(7) To develop a plan for private storage of postnatal tissue and fluid for medical treatment or to make potential donors aware of private storage options for said tissue and fluid as deemed in the public interest;

(8) To participate in the National Cord Blood Program and to register postnatal tissue and fluid collected with registries operating in connection with the program;

(9) To make grants and enter into agreements to support permitted stem cell research with immediate and clinical medical applications;

(10) To employ such staff and to enter into such contracts as may be necessary to fulfill its duties and responsibilities under this chapter subject to funding by the General Assembly; and

(11) To report annually to the General Assembly in December of each year concerning the activities of the commission with recommendations for any legislative changes or funding necessary or desirable to fulfill the goals of this chapter.

(h) The commission shall provide for protection from disclosure of the identity of persons making donations to the Newborn Umbilical Cord Blood Bank pursuant to subsection (a) of Code Section 31-46-3.

(i) The commission may request additional funding from any additional source including, but not limited to, federal and private grants.

(j) The commission may establish a separate not for profit organization or foundation for the purposes of supporting the Newborn Umbilical Cord Blood Bank established pursuant to Code Section 31-46-3.

31-46-5.

Any public funds expended for stem cell research shall conform to the requirements set forth in federal law and Senate Resolution 30, the 'Hope Offered through Principled and Ethical Stem Cell Research Act,' as approved by the United States Senate on April 11, 2007."

SECTION 3.

Article 3 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income tax returns and information, is amended by adding a new Code section to read as follows:

"48-7-63.

(a) Each Georgia income tax return form for taxable years beginning on or after January 1, 2007, shall contain appropriate language, to be determined by the state revenue commissioner, offering the taxpayer the opportunity to contribute to permitted stem cell research, as defined in Code Section 31-46-2, through the Georgia Commission for Saving the Cure by donating either all or any part of any tax refund due, by authorizing a reduction in the refund check otherwise payable, or by contributing any amount over and above any amount of tax owed by adding that amount to the taxpayer's payment. The instructions accompanying the income tax return form shall contain a description of the purposes for which the commission was established and the intended use of moneys received from the contributions. Each taxpayer required to file a state income tax return who desires to

contribute to the commission may designate such contribution as provided in this Code section on the appropriate income tax return form.

(b) The Department of Revenue shall determine annually the total amount so contributed and shall transmit such amount to the Georgia Commission for Saving the Cure."

SECTION 4.

(a) This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

(b) Section 3 of this Act shall apply to all taxable years beginning on and after January 1, 2007.

SECTION 5.

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

Approved May 24, 2007.

COURTS – SOCIAL SERVICES – CHILD ADVOCATE RECORDS; CONFIDENTIALITY; PLACEMENT HEARINGS; CHILD ABUSE AND NEGLECT REGISTRIES.

No. 248 (Senate Bill No. 128).

AN ACT

To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile proceedings, so as to provide for confidentiality of records held by the Office of the Child Advocate for the Protection of Children; to provide specifically for the consideration of in-state and out-of-state placements for children at permanency plan hearings; to provide for procedural safeguards to assure that in a permanency hearing there is consultation with the child, in an age appropriate manner, regarding the proposed permanency and transition plan for the child; to require that foster parents, preadoptive parents, and relative caregivers are given notice of their right to be heard at certain hearings and proceedings; to provide that foster parents, preadoptive parents, and relative caregivers must be provided notice of their right to be heard at all court proceedings held pursuant to Article 2 of said chapter; to amend Chapter 5 of Title 49, relating to programs and protections for children and youth; to provide that the Department of Human Resources shall not disclose or use information from child abuse and neglect registries obtained from other states outside the department for any purpose other than conducting background checks to be used in foster care and adoptive

placements; to permit the department to provide health and education records to children who leave foster care as a result of reaching the age of majority; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile proceedings, is amended in Code Section 15-11-174, relating to the rights and powers of the advocate, by revising paragraph (2) of subsection (a) as follows:

"(2) To have access to all records and files of the division concerning or relating to a child, and to have access, including the right to inspect, copy, and subpoena records held by clerks of the various courts, law enforcement agencies, service providers, including medical and mental health, and institutions, public or private, with whom a particular child has been either voluntarily or otherwise placed for care or from whom the child has received treatment within the state. To the extent any such information provides the names and addresses of individuals who are the subject of any confidential proceeding or statutory confidentiality provisions, such names and addresses or related information which has the effect of identifying such individuals shall not be released to the public without the consent of such individuals. The Office of the Child Advocate for the Protection of Children is bound by all confidentiality safeguards provided in Code Sections 49-5-40 and 49-5-44. Anyone wishing to obtain records held by the Office of the Child Advocate shall petition the original agency of record where such records exist;"

SECTION 2.

Said chapter is further amended by adding a new Code section to read as follows:

"15-11-55.1.

In advance of any hearing or other proceeding to be held with respect to a child pursuant to Code Section 15-11-55 or a deprivation hearing to be held with respect to a child pursuant to paragraph (3) of subsection (c) of Code Section 15-11-49 and Code Sections 15-11-39 and 15-11-39.2, the court shall provide notice or shall direct that a party shall provide notice of such hearing or other proceeding, including their right to be heard at such hearing or other proceeding, to the foster parents of the child, and to any preadoptive parents or relatives providing care for the child, consistent with the form and timing of notice to parties; provided, however, that this provision shall not be construed to require a foster parent, preadoptive parent, or relative caring for the child to be made a party to the hearing solely on the basis of such notice and right to be heard."

SECTION 3.

Said chapter is further amended in Code Section 15-11-58, relating to case plans, permanency plans, and other court proceedings regarding deprived juveniles, by revising paragraph (4) of subsection (o) as follows:

"(4) The parents, the custodian of the child, the foster parents of the child, any preadoptive parent or relative providing care for the child, and other parties shall be given written notice of a permanency hearing at least five days in advance and shall be advised that the permanency plan recommended by the Division of Family and Children Services of the Department of Human Resources will be submitted to the court for consideration to become an order of the court. Procedural safeguards shall be applied with respect to parental rights pertaining to the removal of the child from the home of his or her parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents. Procedural safeguards shall also be applied to assure that the court or the judicial citizen review panel conducting a permanency hearing, including any hearing regarding transition of the child from foster care to independent living, shall consult, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for such child. The provisions of subsection (p) of this Code section concerning notice, opportunity to be heard, authority of the court, and content of the court's order are applicable to proceedings under this paragraph."

SECTION 4.

Said chapter is further amended in Code Section 15-11-58, relating to case plans, permanency plans, and other court proceedings regarding deprived juveniles, by revising paragraph (6) of subsection (o) as follows:

"(6) The court or judicial citizen review panel which conducts the permanency hearing shall determine, as a finding of fact, whether the Division of Family and Children Services of the Department of Human Resources has made reasonable efforts to finalize the permanency plan which is in effect at the time of the hearing. Further, the court or the judicial citizen review panel, if applicable, shall determine as a finding of fact whether, in the case of a child placed out of the state, the out-of-state placement continues to be appropriate and in the best interest of the child and, in the case of a child who has attained the age of 14, shall determine the services needed to assist the child to make a transition from foster care to independent living. Also, in the case of a child whose permanency plan provides that the child will not be returned to the parent, the court or judicial citizen review panel, if applicable, shall consider in-state and out-of-state placement options for such child. Such findings of fact shall be made a part of the report of the judicial citizen review panel to the court and any supplemental order entered by the court."

SECTION 5.

Said chapter is further amended in Code Section 15-11-58, relating to case plans, permanency plans, and other court proceedings regarding deprived juveniles, by revising subsection (p) as follows:

"(p) In advance of each review, hearing, or other proceeding to be held with respect to a child pursuant to this Code section, the court shall provide written notice or shall direct that a party shall provide written notice of such review, hearing, or other proceeding, including their right to be heard at such review, hearing, or other proceeding to the custodian of the child, to the foster parents of the child, and to any preadoptive parents or relatives providing care for the child, consistent with the form and timing of notice to parties; provided, however, that this provision shall not be construed to require a custodian, foster parent, preadoptive parent, or relative caring for the child to be made a party to the review, hearing, or other proceeding solely on the basis of such notice and opportunity to be heard. At each such review, hearing, or proceeding, the court in its discretion, based upon the evidence, may enter an order accepting or rejecting any report of the Division of Family and Children Services of the Department of Human Resources, ordering an additional evaluation, appointing a guardian ad litem, or undertaking such other review as it deems necessary and appropriate to determine the disposition that is in the child's best interest. The court's order may incorporate all or part of the report of the Division of Family and Children Services of the Department of Human Resources. In its order the court shall include findings of fact which reflect the court's consideration of the oral and written testimony offered by the parents, the custodian of the child, the foster parents of the child, any preadoptive parents or relatives providing care for the child who are required to be provided with notice and a right to be heard in any review, hearing, or proceeding to be held with respect to the child, and the Division of Family and Children Services of the Department of Human Resources. A disposition may be made under the terms of this Code section only if the court finds that such disposition is in the best interest of the child."

SECTION 6.

Said chapter is further amended by revising Code Section 15-11-104, relating to the applicability of Article 1 of Chapter 11 of Title 15 to Article 2, to read as follows:

"15-11-104.

In a proceeding under this article, the provisions of Article 1 of this chapter shall apply unless in conflict with this article. In advance of any hearing or other proceeding to be held with respect to a child pursuant to this article, the court shall provide written notice or shall direct that a party shall provide written notice of such hearing or other proceeding, including their right to be heard at such hearing or other proceeding, to the foster parents of the child and to any preadoptive parents or relatives providing care for the child, consistent with the form and timing of notice to parties; provided, however, that this provision shall not be construed to require a foster parent, preadoptive parent, or relative

caring for the child to be made a party to the hearing solely on the basis of such notice and right to be heard."

SECTION 7.

Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to programs and protections for children and youth, is further amended by adding a new subsection (c) to Code Section 49-5-40, relating to definitions and confidentiality of records, to read as follows:

"(c) Each and every record concerning child abuse or neglect which is received by the department from the child abuse and neglect registry of any other state shall not be disclosed or used outside the department for any other purpose other than conducting background checks to be used in foster care and adoptive placements."

SECTION 8.

Said chapter is further amended by adding a new paragraph (12) to subsection (c) of Code Section 49-5-41, relating to persons and agencies permitted access to records, to read as follows:

"(12) An individual, at the time such individual is leaving foster care by reason of having attained the age of majority, but such access shall be limited to providing such individual with a free copy of his or her health and education records, including the most recent information available."

SECTION 9.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 10.

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

Approved May 24, 2007.

PROFESSIONS - GEORGIA REAL ESTATE COMMISSION; LICENSING; PREFERENCES; APPLICATIONS; INSTRUCTIONAL REQUIREMENTS; EDUCATIONAL MATERIALS.

No. 249 (Senate Bill No. 114).

AN ACT

To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to change certain provisions relating to points given to disabled veterans taking examinations for licensing; to provide that certain time periods shall have passed after completing the terms and conditions of a sentence for certain criminal convictions before making an application for appraiser classification or approval to the Georgia Real Estate Appraiser Board; to provide for additional criminal offenses for which the board may deny a classification or approval; to change provisions relating to lapsed appraisal classifications; to permit the board to provide certain educational materials to consumers; to provide that certain time periods shall have passed after completing the terms and conditions of a sentence for certain criminal convictions before making an application for licensure to the Georgia Real Estate Commission; to provide for additional criminal offenses for which the commission may deny a license; to change the term "in-class hour" to "instructional hour"; to change the number of instructional hours for a broker prelicense course of study; to change the required number of continuing education hours for each year of the renewal period established by the commission; to provide for certain provisions relating to persons on active military duty or serving in the General Assembly; to permit the commission to provide certain educational materials to consumers; to provide that brokers are entitled to trust funds only after consummation or termination of the transaction; to permit a licensee to deal directly with another licensee's client under certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 43 of the Official Code of Georgia Annotated, relating to professions and business, is amended by revising paragraphs (2) and (3) as follows of Code Section 43-1-9, relating to point credit for veterans taking examinations given by professional licensing boards, as follows:

"(2) Any applicant who is a disabled veteran and who served on active duty in the armed forces of the United States or on active duty in a reserve component of the armed forces of the United States, including the National Guard, during wartime or during any conflict

when military personnel were committed by the President of the United States shall be entitled to a credit of five points if the disability was for an injury or illness incurred in the line of duty and such disability is officially rated at less than 10 percent at the time of taking the examination. Such points shall be added by the person grading the examination to the grade made by the applicant in answering the questions propounded in any such examination; and

(3) Any applicant who is a disabled veteran who served on active duty in the armed forces of the United States or on active duty in a reserve component of the armed forces of the United States, including the National Guard, during wartime or during any conflict when military personnel were committed by the President of the United States shall be entitled to a credit of ten points if the disability was for an injury or illness incurred in the line of duty and such disability is officially rated at 10 percent or above at the time of taking the examination. Such points shall be added by the person grading the examination to the grade made by the applicant in answering questions propounded in any such examination."

SECTION 2.

Said title is further amended in Chapter 39A, relating to real estate appraisers, by revising Code Section 43-39A-8, relating to the establishment of appraiser classifications complying with federal law, continuing education courses required for renewal of classification, and approval of instructors, by adding two new subsections to read as follows:

"(a.1) In order to qualify to become an applicant for an appraiser classification or approval, an individual shall:

(1) Have attained the age of 18 years;

(2) Be a resident of the State of Georgia, unless that person has fully complied with the provisions of Code Section 43-39A-9;

(3) Have attained the level of education that the board may establish through its rules and regulations;

(4) Have complied fully with the requirements of subsection (b) of Code Section 43-39A-14 regarding any criminal convictions;

(5) Furnish evidence of completion of the instructional hours in any course of study the board may require through its rules and regulations; and

(6) Stand and pass an examination administered by or approved by the board covering generally the matters confronting real property appraisers after completing the requirements of paragraph (5) of this subsection.

Failure to meet any of these requirements shall be grounds for denial of classification or approval without a hearing."

"(f) The board may prepare and distribute to appraisers under this chapter educational material deemed of assistance in the conduct of their business. The board may prepare and distribute to the public educational material deemed of assistance to consumers engaging in business in real estate appraisals with persons classified under this chapter."

SECTION 3.

Said title is further amended in Chapter 39A by revising subsection (f) of Code Section 43-39A-11, relating to fees for examination, activation, and renewal and reactivation of lapsed or inactive appraiser classification, as follows:

"(f) Any resident appraiser whose appraiser classification lapses for failure to pay a renewal fee may reactivate that appraiser classification within two years of the date of its lapsing by paying the total amount of all renewal fees and late charges which would have been due during the period when the appraiser classification was lapsed plus a reactivation fee. If any resident appraiser allows an appraiser classification to lapse for a period longer than two years due solely to a failure to pay a renewal fee, the resident appraiser may have that appraiser classification reinstated by paying the total amount of all renewal fees and late charges which would have been due during the period when the appraiser classification was lapsed plus a reactivation fee and by successfully completing any educational course or courses which the board may require. Any resident appraiser whose appraiser classification has lapsed for longer than five years and who seeks to have that appraiser classification reinstated shall requalify as an original applicant as set forth in Code Section 43-39A-8. Any nonresident appraiser whose appraiser classification lapses for failure to pay a renewal fee may reactivate that appraiser classification by paying the fee required of an original applicant if such nonresident appraiser has maintained an active classification in his or her state of residence during the period that his or her classification lapsed. The board may refuse to renew an appraiser classification if the appraiser has continued to perform real estate appraisal activities following the lapsing of that appraiser classification."

SECTION 4.

Said title is further amended in Chapter 39A by revising subsection (b) of Code Section 43-39A-14, relating to required conduct of applicants and refusal of classification, as follows:

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

(A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of a felony or any crime involving moral turpitude, regardless of whether an appeal of the conviction has been brought; a sentencing to first offender treatment without an adjudication of guilt pursuant to a charge of a felony or any crime involving moral turpitude; or a plea of nolo contendere to a charge of a felony or any crime involving moral turpitude.

(B) 'Felony' includes any offense which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere.

(1.1) No person who has a conviction shall be eligible to become an applicant for a license or an approval authorized by this chapter unless such person has successfully completed all terms and conditions of any sentence imposed for such conviction; provided that if such individual has multiple convictions, at least five years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for

the last conviction before making application for licensure or approval; and provided that if such individual has a single conviction, at least two years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval.

(1.2) A person who has a conviction in a court of competent jurisdiction of this or any other state, district, or territory of the United States, or of a foreign country, shall be eligible to become an applicant for a licensure or an approval authorized by this chapter only if:

(A) Such person has satisfied all terms and conditions of any conviction such person may have had before making application for licensure or approval; provided that if such individual has multiple convictions, at least five years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval; and provided that if such individual has been convicted of a single felony or of a single crime of moral turpitude, at least two years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval;

(B) No criminal charges for forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, a felony, a sex offense, a probation violation, or a crime involving moral turpitude are pending against the person; and

(C) Such person presents to the commission satisfactory proof that the person now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of a licensee in such a manner as to safeguard the interest of the public.

(2) Where an applicant for any classification or approval authorized by this chapter has been convicted in a court of competent jurisdiction of this or any other state, district, or territory of the United States or of a foreign country of the offense of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, or conspiracy to defraud or other like offense or offenses or has been convicted of a felony, a sex offense, a probation violation, or a crime involving moral turpitude, such conviction in itself may be a sufficient ground for refusal of a classification or approval. An applicant for any classification or approval authorized by this chapter who has been convicted of any offense enumerated in this paragraph may be issued a classification or approval by the board only if:

(A) The time periods identified in paragraph (1) of this subsection have passed since the applicant was convicted, sentenced, or released from any incarceration, whichever is later;

(B) No criminal charges are pending against the applicant; and

(C) The applicant presents to the board satisfactory proof that the applicant now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact

real estate appraisal activity in such a manner as to safeguard the interests of the public."

SECTION 5.

Said title is further amended in Chapter 40, relating to real estate brokers and salespersons, by revising Code Section 43-40-8, relating to license requirements, as follows:

"43-40-8.

(a) In order to qualify to become an applicant for a community association manager's license, an individual shall:

(1) Have attained the age of 18 years;

(2) Be a resident of the State of Georgia, unless that person has fully complied with the provisions of Code Section 43-40-9;

(3) Be a high school graduate or the holder of a certificate of equivalency;

(3.1) Have complied fully with the requirements of subsection (b) of Code Section 43-40-15 regarding any criminal convictions;

(4) Furnish evidence of completion of at least 25 instructional hours in a community association manager's course of study approved by the commission; and

(5) Stand and pass a real estate examination administered by or approved by the commission covering generally the matters confronting real estate brokers who provide community association management services and community association managers after completing the requirements of paragraph (4) of this subsection.

Failure to meet any of these requirements shall be grounds for denial of license without a hearing.

(b) In order to qualify to become an applicant for a salesperson's license, an individual shall:

(1) Have attained the age of 18 years;

(2) Be a resident of the State of Georgia, unless that person has fully complied with the provisions of Code Section 43-40-9;

(3) Be a high school graduate or the holder of a certificate of equivalency;

(3.1) Have complied fully with the requirements of subsection (b) of Code Section 43-40-15 regarding any criminal convictions;

(4) Furnish evidence of completion of at least 75 instructional hours in a salesperson's course of study approved by the commission; and

(5) Stand and pass a real estate examination administered by or approved by the commission covering generally the matters confronting real estate brokers and salespersons after completing the requirements of paragraph (4) of this subsection.

Failure to meet any of these requirements shall be grounds for denial of license without a hearing.

(c) In order to qualify to become an applicant for a broker or associate broker's license, an individual shall:

(1) Have attained the age of 21 years;

(2) Be a resident of the State of Georgia, unless that person has fully complied with the provisions of Code Section 43-40-9;

(3) Be a high school graduate or the holder of a certificate of equivalency;

(3.1) Have complied fully with the requirements of subsection (b) of Code Section 43-40-15 regarding any criminal convictions;

(4) Have maintained a license in active status for at least three of the five years immediately preceding the filing of an application to become a broker;

(5) Furnish evidence of completion of 60 instructional hours in a broker's course of study approved by the commission, provided that if licensed as a community association manager, the applicant shall furnish evidence of completion of an additional 75 instructional hours in courses or a course of study approved by the commission; and

(6) Stand and pass a real estate examination administered by or approved by the commission covering generally the matters confronting real estate brokers after completing the requirements of paragraph (5) of this subsection and after serving at least two years of active licensure.

Failure to meet any of these requirements shall be grounds for denial of license without a hearing.

(d) Upon being issued an original salesperson's license, each salesperson shall be required to furnish the commission, within one year of the issuance of a license, evidence of satisfactory completion of a course of study of at least 25 instructional hours approved by the commission. As a condition of satisfactory completion of this course, the licensee shall stand and pass an examination that the commission approves and that covers the subject matter contained in the course. The license of any salesperson who fails to complete satisfactorily in a timely manner the course provided for in this subsection shall lapse, and the salesperson's wall certificate of licensure and pocket card shall immediately be surrendered to the commission. Any salesperson whose license lapses for failure to complete satisfactorily an approved 25 instructional hour course may reinstate the license in the following manner:

(1) Any salesperson who has enrolled in any approved 25 instructional hour course within one year of the issuance of an original license, has paid all required fees for the course, and has not completed all in-class sessions, required exercises, or examinations for any reason may reinstate the license by completing the course within six months of the lapsing of the license; or

(2) Any salesperson who fails to reinstate a lapsed license as provided in paragraph (1) of this subsection shall complete 25 instructional hours in a course of study approved by the commission and pay such penalty fees as the commission may require through its rules and regulations before making application to reinstate such license.

(e) Except those individuals actively licensed on January 1, 1980, each applicant for renewal of an active license shall furnish to the commission before renewing a license evidence of satisfactorily completing a continuing education course or courses approved by the commission. The length of the course or courses taken by licensees to meet this

requirement of continuing education shall total at least six instructional hours for each year of the renewal period established by the commission. The commission shall not require the passing of an examination to meet this requirement. Continuing education courses shall be provided by all educational or duly authorized instructional organizations teaching real estate licensing courses. No licensee whose license has been placed on inactive status shall be allowed to reactivate unless the provisions of this subsection and subsection (g) of Code Section 43-40-12 are met. Individuals serving on active duty in the armed forces of the United States or in the General Assembly may choose not to meet the continuing education requirements of this subsection while on active duty or during their terms of office. Members of the armed forces or the General Assembly who choose to exercise this temporary exemption option and whose term of active duty or of office exceeds two years shall be required to complete the 25 instructional hour course referenced in subsection (d) above within six months of the conclusion of their active duty or term of office.

(f) Instructors in all of the approved courses shall be approved by the commission and, where the commission deems necessary, receive any special instruction the commission may require.

(g) Failure to complete any of the educational requirements as provided in this Code section shall be grounds for denial of a license or denial of renewal of a license without further hearing. No fees or portion of fees paid shall be refunded if a licensee fails to meet the continuing education provisions of subsections (d) and (e) of this Code section or any other provisions of this chapter.

(h) The commission may prepare and distribute to licensees under this chapter educational material deemed of assistance in the conduct of their business. The commission may prepare and distribute to the public educational material deemed of assistance to consumers engaging in business in real estate transactions with persons licensed under this chapter.

(i) The commission, through its rules and regulations, shall establish standards for the approval of schools and instructors to offer the education courses required by this chapter. Each approved school shall comply with Code Sections 43-40-15 through 43-40-32. Each approved school shall designate an individual approved by the commission to act as its director and such designated individual shall be responsible for assuring that the approved school complies with the requirements of this chapter and rules and regulations promulgated under this chapter. An approved school shall authorize its director to bind the school to any settlement of a contested case before the commission as defined in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The commission, through its rules and regulations, shall establish standards for the offering of the prelicense education courses required by this chapter by methods of instruction, which it deems to be educationally sound, other than in-class instruction. The commission, through its rules and regulations, may establish standards for the offering of continuing education courses required by this chapter by methods of instruction, which it deems to be educationally sound, other than in-class instruction."

SECTION 6.

Said title is further amended in Chapter 40 by revising subsections (f) and (g) of Code Section 43-40-12, relating to inactive status of a license, as follows:

"(f) Any licensee whose license lapses for failure to pay a renewal fee may reinstate that license within two years of the date of its lapsing by paying the total amount of all renewal fees and late charges which would have been due during the period when the license was lapsed plus a reinstatement fee. If any licensee who has passed an examination administered by or approved by the commission allows a license to lapse for a period longer than two years and less than five years due solely to a failure to pay a renewal fee, the licensee may reinstate that license by paying the total amount of all renewal fees and late charges which would have been due during the period when the license was lapsed plus a reinstatement fee and by successfully completing any educational course or courses which the commission may require. Any licensee whose license has lapsed for longer than five years for failure to pay a renewal fee and who seeks to reinstate that license shall meet the education and examination requirements for that license as set forth in Code Section 43-40-8. Any nonresident licensee whose license lapses for failure to pay a renewal fee may reactivate that license by paying the fee required of an original applicant if such nonresident licensee has maintained an active license in his or her state of residence during the period that his or her license lapsed and has met its continuing education requirements. Any licensee whose license has lapsed for longer than one year and who is not subject to the continuing education requirements of subsection (e) of Code Section 43-40-8 and who reinstates such license under the terms of this subsection shall thereafter be subject to the continuing education requirements of subsection (e) of Code Section 43-40-8.

(g) Any real estate broker who does not wish to be actively engaged in the brokerage business or any licensee who is temporarily not actively engaged on behalf of a broker may continue a license by making a written request within 30 days of ceasing work that the license be placed on inactive status. Any licensee whose license has been placed on an inactive status shall not engage in the real estate brokerage business except in connection with property owned by the licensee. To reinstate a license held on inactive status, a licensee other than a broker shall secure the signature of the broker for whom the licensee wishes to act; and a broker shall make application to the commission prior to resuming brokerage activity. Any individual licensee who seeks to activate a license which has been on inactive status shall first meet the continuing education requirement of subsection (e) of Code Section 43-40-8 which would have been required had such person been on active status unless such person maintained an active license in another state that has continuing education requirements while such licensee's license was on inactive status in Georgia."

SECTION 7.

Said title is further amended in Chapter 40 by revising subsection (b) of Code Section 43-40-15, relating to the grant, revocation, or suspension of licenses, as follows:

"(b)(1) As used in this Code section, the term:

(A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of a felony or any crime involving moral turpitude, regardless of whether an appeal of the conviction has been brought; a sentencing to first offender treatment without an adjudication of guilt pursuant to a charge of a felony or any crime involving moral turpitude; or a plea of nolo contendere to a charge of a felony or any crime involving moral turpitude.

(B) 'Felony' includes any offense which, if committed in this state, would be deemed a felony, without regard to its designation elsewhere.

(1.1) No person who has a conviction shall be eligible to become an applicant for a license or an approval authorized by this chapter unless such person has successfully completed all terms and conditions of any sentence imposed for such conviction; provided that if such individual has multiple convictions, at least five years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval; and provided that if such individual has a single conviction, at least two years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval.

(1.2) A person who has a conviction in a court of competent jurisdiction of this or any other state, district, or territory of the United States, or of a foreign country, shall be eligible to become an applicant for a licensure or an approval authorized by this chapter only if:

(A) Such person has satisfied all terms and conditions of any conviction such person may have had before making application for licensure or approval; provided that if such individual has multiple convictions, at least five years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval; and provided that if such individual has been convicted of a single felony or of a single crime of moral turpitude, at least two years shall have passed since the individual satisfied all terms and conditions of any sentence imposed for the last conviction before making application for licensure or approval;

(B) No criminal charges for forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, a felony, a sex offense, a probation violation, or a crime involving moral turpitude are pending against the person; and

(C) Such person presents to the commission satisfactory proof that the person now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of a licensee in such a manner as to safeguard the interest of the public.

(2) Where an applicant for any license or approval authorized by this chapter has been convicted of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or other like offense or offenses or has been convicted of a felony, a sex offense, a probation violation, or a crime involving moral turpitude and

has been convicted thereof in a court of competent jurisdiction of this or any other state, district, or territory of the United States or of a foreign country such conviction in itself may be sufficient ground for refusal of a license or approval authorized by this chapter. An applicant for licensure as an associate broker or a broker who has been convicted of any offense enumerated in this paragraph may be licensed by the commission as an associate broker or a broker only if:

(A) At least ten years have passed since the applicant was convicted, sentenced, or released from any incarceration, whichever is later;

(B) No criminal charges are pending against the applicant; and

(C) The applicant presents to the commission satisfactory proof that the applicant now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of a licensee in such a manner as to safeguard the interest of the public."

SECTION 8.

Said title is further amended in Chapter 40 by revising subsection (e) of Code Section 43-40-20, relating to when a broker is entitled to commission or fee, as follows:

"(e) A broker shall not be entitled to any part of the earnest money, security deposit, or other trust funds paid to the broker in connection with any real estate transaction as part or all of the broker's commission or fee until the transaction has been consummated or terminated."

SECTION 9.

Said title is further amended in Chapter 40 by revising paragraph (14) of subsection (b) of Code Section 43-40-25, relating to unfair trade practices, as follows:

"(14) Negotiating a sale, exchange, or lease of real estate directly with an owner, a lessor, a purchaser, or a tenant if the licensee knows that such owner or lessor has a written outstanding listing contract in connection with such property granting an exclusive agency or an exclusive right to sell to another broker or that such purchaser or tenant has a written outstanding exclusive brokerage agreement with another broker, unless the outstanding listing or brokerage agreement provides that the licensee holding such agreement will not provide negotiation services to the client;"

SECTION 10.

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

Approved May 24, 2007.

CRIMINAL PROCEDURE –
GOOD BEHAVIOR
BONDS.

No. 250 (Senate Bill No. 106).

AN ACT

To amend Part 1 of Article 4 of Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to bonds for good behavior, so as to extend the period for which the court may require a bond with a surety for good behavior; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1 of Article 4 of Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to bonds for good behavior, is amended by revising subsection (a) of Code Section 17-6-90, relating to the requirement of a bond upon the return of a warrant, as follows:

"(a) Any judicial officer authorized to hold a court of inquiry may, upon the information of others under oath or upon his or her own motion, issue a warrant against any person in the county whose conduct is such as to justify the belief that the safety of any one or more persons in the county or the peace or property of the same is in danger of being injured or disturbed thereby. Upon the return of the warrant and upon sufficient cause being shown, the court may require from the person a bond with sureties for such person's good behavior until the next term of the superior court of the county or for a period of up to six months, whichever is greater. Any person against whom a warrant issues must, within 24 hours, be brought for a hearing before the court which issued the warrant or be released on bond by the sheriff, the amount and reasonable conditions of such bond to be set by the court which issued the warrant."

SECTION 2.

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

Approved May 24, 2007.

PROFESSIONS – CHIROPRACTORS;
SCOPE OF PRACTICE.

No. 251 (Senate Bill No. 102).

AN ACT

To amend Chapter 9 of Title 43 of the Official Code of Georgia Annotated, relating to licensure and regulation of chiropractors, so as to define and redefine certain terms; to change provisions relative to the scope of practice of chiropractors; to change the criminal penalties for unlicensed practice of chiropractic; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 9 of Title 43 of the Official Code of Georgia Annotated, relating to licensure and regulation of chiropractors, is amended by revising Code Section 43-9-1, relating to definitions, Code Section 43-9-16, relating to scope of practice, and 43-9-19, relating to the crime of unlicensed practice as follows:

"43-9-1.

As used in this chapter, the term:

(1) 'Board' means the Georgia Board of Chiropractic Examiners.

(2) 'Chiropractic' means the adjustment of the articulations of the human body, including ilium, sacrum, and coccyx, and the use of X-ray, provided that the X-ray shall not be used for therapeutical purposes. The term 'chiropractic' shall also mean that separate and distinct branch of the healing arts whose science and art utilize the inherent recuperative powers of the body and the relationship between the musculoskeletal structures and functions of the body, particularly of the spinal column and the nervous system, in the restoration and maintenance of health. Chiropractic is a learned profession which teaches that the relationship between structure and function in the human body is a significant health factor and that such relationships between the spinal column and the nervous system are most significant, since the normal transmission and expression of nerve energy are essential to the restoration and maintenance of health. However, the term 'chiropractic' shall not include the use of drugs or surgery. The adjustment referred to in this paragraph and subsection (b) of Code Section 43-9-16 may only be administered by a doctor of chiropractic authorized to do so by the provisions of this chapter; provided, however, that the provisions of this Code section shall not prevent any other health care provider from administering techniques authorized within their scope of practice.

(3) 'Practice of chiropractic' shall also include peer review which is defined as the procedure by which chiropractors licensed in the state of Georgia evaluate the quality and

efficiency of services ordered or performed by other chiropractors, including but not limited to practice analysis, audit, claims review, underwriting assistance, utilization review, and compliance with applicable laws, rules, and regulations.

(4) 'Subluxation' means a complex of functional or pathological articular changes that compromise neural integrity and general health. A subluxation is evaluated, diagnosed, and managed through the use of chiropractic procedures based on the best available rational and empirical evidence."

"43-9-16.

(a) Chiropractors who have complied with this chapter shall have the right to practice chiropractic as defined in paragraph (2) of Code Section 43-9-1 and to evaluate, diagnose, and adjust patients according to specific chiropractic methods in order to correct spinal subluxations or to adjust the articulations of the human body. Chiropractors shall observe all applicable public health regulations.

(b) The chiropractic adjustment of the spine or articulations of the human body may include manual adjustments and adjustments by means of electrical and mechanical devices which produce traction or vibration. Chiropractors who have complied with this chapter may also use modalities. Modalities include any physical agent applied to produce therapeutic change to biologic tissues including thermal, acoustic, noninvasive light, mechanical, or electric energy, hot or cold packs, ultrasound, galvanism, microwave, diathermy, and electrical stimulation. Chiropractors who have complied with this chapter may utilize and recommend therapeutic procedures effecting change through the application of clinical skills and services that attempt to improve function, including therapeutic exercise, therapeutic activities, manual therapy techniques, massage, and structural supports as they relate to the articulations of the human body; provided, however, the same shall not be construed to allow chiropractors to treat patients outside the scope of practice of chiropractic as set forth in this chapter.

(c) Chiropractors who have complied with this chapter may utilize those modalities and procedures described in subsection (b) of this Code section, provided the chiropractor shall have completed a course of study containing a minimum of 120 hours of instruction in the proper utilization of those procedures in accordance with the guidelines set forth by the Council on Chiropractic Education or its successor and is qualified and so certified in that proper utilization.

(d) Chiropractors who have complied with this chapter shall have the right to sign health certificates, reporting to the proper health officers the same as other practitioners.

(e) Chiropractors shall not prescribe or administer medicine to patients, perform surgery, or practice obstetrics or osteopathy.

(f) Chiropractors shall not use venipuncture, capillary puncture, acupuncture, or any other technique which is invasive of the human body either by penetrating the skin or through any of the orifices of the body or through the use of colonics. Nothing in this subsection

shall be construed to prohibit a chiropractor who is licensed to perform acupuncture under Article 3 of Chapter 34 of this title from engaging in the practice of acupuncture.

(g) A person professing to practice chiropractic for compensation must bring to the exercise of that person's profession a reasonable degree of care and skill. Any injury resulting from a want of such care and skill shall be a tort for which a recovery may be had. If a chiropractor performs upon a patient any act authorized to be so performed under this chapter but which act also constitutes a standard procedure of the practice of medicine, including but not limited to the use of modalities such as those described in subsection (b) of this Code section and X-rays, under similar circumstances the chiropractor shall be held to the same standard of care as would licensed doctors of medicine who are qualified to and who actually perform those acts under similar conditions and like circumstances.

(h) A licensed practitioner of chiropractic may use only the title 'chiropractor,' or 'doctor of chiropractic,' or 'D.C.'

(i) Chiropractors who have complied with this chapter may recommend the use of nutritional and dietary supplements. Any such recommendation of nutritional and dietary supplements shall not be construed to allow chiropractors to treat patients outside the scope of the practice of chiropractic as set forth in this chapter nor shall this subsection be construed to allow chiropractors to sell at a profit any such nutritional and dietary supplements without providing their generic name. Nothing in this subsection shall preclude compliance with Chapter 8 of Title 48, relating to the collection of sales and use taxes."

"43-9-19.

It shall be unlawful for any person to practice chiropractic unless that person shall have first obtained a license as provided in this chapter and possesses all the qualifications prescribed by the terms of this chapter. Any person who practices or attempts to practice chiropractic without a license, or who buys or fraudulently obtains a license to practice chiropractic, or who violates any of the terms of this chapter, or who uses the title 'doctor of chiropractic,' 'chiropractor,' 'chiropractic,' 'D.C.,' or any word or title to induce the belief that such a person is engaged in the practice of chiropractic, without first complying with this chapter, shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of not less than $500.00 nor more than $5,000.00, or by imprisonment for not less than two nor more than five years, or both, at the discretion of the court. All subsequent offenses shall be separate and distinct offenses, and punishable in like manner."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 24, 2007.

CRIMES – MINORS; PURCHASE OF CIGARETTES OR TOBACCO RELATED OBJECTS.

No. 252 (Senate Bill No. 95).

AN ACT

To amend Article 7 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to sale or distribution to, or possession by, minors of cigarettes and tobacco related objects, so as to make it unlawful to attempt to purchase cigarettes or tobacco related objects; to change certain provisions relating to sales from vending machines; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 7 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to sale or distribution to, or possession by, minors of cigarettes and tobacco related objects, is amended by revising subparagraph (b)(1)(A) of Code Section 16-12-171, relating to prohibited acts, as follows:

"(A) Purchase, attempt to purchase, or possess for personal use any cigarettes or tobacco related objects. This subparagraph shall not apply to possession of cigarettes or tobacco related objects by a minor when a parent or guardian of such minor gives the cigarettes or tobacco related objects to the minor and possession is in the home of the parent or guardian and such parent or guardian is present; or"

SECTION 2.

Said article is further amended by revising subsection (a) of Code Section 16-12-173, relating to sales from vending machines, as follows:

"(a)(1) Any person who maintains in such person's place of business a vending machine which dispenses cigarettes, tobacco products, or tobacco related objects shall place or cause to be placed in a conspicuous place on such vending machine a sign containing the following statement:

'THE PURCHASE OF CIGARETTES, TOBACCO PRODUCTS, OR TOBACCO RELATED OBJECTS FROM THIS VENDING MACHINE BY ANY PERSON UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW.'

(2) Any person who maintains in such person's place of business a vending machine which dispenses cigarettes, tobacco products, or tobacco related objects shall not dispense any nontobacco product, other than matches, in such vending machine."

SECTION 3.

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

Approved May 24, 2007.

PROPERTY – LANDLORD AND TENANT; DEFAULT JUDGMENT.

No. 253 (Senate Bill No. 94).

AN ACT

To amend Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to landlord and tenant, so as to define a term; to clarify the process for judgments by default; to change and provide for definitions; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to landlord and tenant, is revised by adding a new Code section to read as follows:

"44-7-49.

As used in this article, the term 'writ of possession' means a writ issued to recover the possession of land or other property and such writ shall not contain restrictions, responsibilities, or conditions upon the landlord in order to be placed in full possession of the land or other property."

SECTION 2.

Said chapter is further amended by revising subsection (a) of Code Section 44-7-53, relating to when writ of possession is issued, trial of issues, and possession pending trial as follows:

"(a) If the tenant fails to answer as provided in subsection (b) of Code Section 44-7-51, the court shall issue a writ of possession instanter notwithstanding Code Section 9-11-55 or Code Section 9-11-62. The court, without the intervention of a jury, shall not require any further evidence nor hold any hearings and the plaintiff shall be entitled to a verdict and judgment by default for all rents due as if every item and paragraph of the affidavit provided for in Code Section 44-7-50 were supported by proper evidence."

SECTION 3

Said chapter is further amended by revising Code Section 44-7-30, relating to definitions, as follows:

"44-7-30.

As used in this article, the term:

(1) 'Nonrefundable fee' means any money or other consideration paid or given by a tenant to a landlord under the terms of a residential rental agreement which the parties agreed would not be refunded.

(2) 'Residential rental agreement' means a contract, lease, or license agreement for the rental or use of real property as a dwelling place.

(3) 'Security deposit' means money or any other form of security given after July 1, 1976, by a tenant to a landlord which shall be held by the landlord on behalf of a tenant by virtue of a residential rental agreement and shall include, but not be limited to, damage deposits, advance rent deposits, and pet deposits. Such term shall not include nonrefundable fees, or money or other consideration which are not to be returned to the tenant under the terms of the residential rental agreement or which were to be applied toward the payment of rent or reimbursement of services or utilities provided to the tenant."

SECTION 4.

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

Approved May 24, 2007.

INSURANCE – ARMED FORCES; UNSCRUPULOUS MARKETING PRACTICES.

No. 254 (Senate Bill No. 84).

AN ACT

To amend Code Section 33-6-4 of the Official Code of Georgia Annotated, relating to enumeration of unfair methods of competition and unfair or deceptive acts or practices, so as to protect members of the armed forces of the United States from unscrupulous practices regarding the marketing and sale of insurance; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 33-6-4 of the Official Code of Georgia Annotated, relating to enumeration of unfair methods of competition and unfair or deceptive acts or practices, is amended by revising paragraph (14) of subsection (b) and adding a new paragraph (14.1) to read as follows:

"(14) Failing to disclose in printed advertising material that medical benefits are calculated on the basis of usual, customary, and reasonable charges;

(14.1) Engaging in dishonest, unfair, or deceptive insurance practices in marketing or sales of insurance to service members of the armed forces of the United States and, notwithstanding any other provision of this title, the Commissioner may promulgate such rules and regulations as necessary to define dishonest, unfair, or deceptive military marketing and sales practices; or".

SECTION 2.

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

Approved May 24, 2007.

CRIMES – ATTEMPTS TO COMMIT FELONIES PUNISHABLE BY DEATH OR LIFE IMPRISONMENT.

No. 255 (Senate Bill No. 79).

AN ACT

To amend Chapter 4 of Title 16 of the Official Code of Georgia Annotated, relating to criminal attempt, conspiracy, and solicitation, so as to increase the maximum punishment for convictions for criminal attempt to commit felonies punishable by death or life imprisonment; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 4 of Title 16 of the Official Code of Georgia Annotated, relating to criminal attempt, conspiracy, and solicitation, is amended by revising Code Section 16-4-6, relating to penalties for criminal attempt, as follows:

"16-4-6.

(a) A person convicted of the offense of criminal attempt to commit a crime punishable by death or by life imprisonment shall be punished by imprisonment for not less than one year nor more than 30 years.

(b) A person convicted of the offense of criminal attempt to commit a felony, other than a felony punishable by death or life imprisonment, shall be punished by imprisonment for not less than one year nor more than one-half the maximum period of time for which he or she could have been sentenced if he or she had been convicted of the crime attempted, by one-half the maximum fine to which he or she could have been subjected if he or she had been convicted of the crime attempted, or both.

(c) A person convicted of the offense of criminal attempt to commit a misdemeanor shall be punished as for a misdemeanor."

SECTION 2.

This Act shall become effective on July 1, 2007, and shall apply to all crimes committed on and after that date.

SECTION 3.

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

Approved May 24, 2007.

BANKS AND BANKING – SUBSTANTIAL REVISION AND UPDATE TO REFLECT CHANGES IN FEDERAL LAW.

No. 256 (Senate Bill No. 70).

AN ACT

To amend Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to financial institutions generally, so as to update the banking laws in order to reflect changes in federal law and for other purposes; to exclude the value of good will in certain transactions; to regulate real estate loans; to allow for the electronic transmission of proxy; to allow for share exchange in mergers or consolidations; to define share exchange; to change the qualifications for check sellers; to require background checks on employees and agents of check sellers; to provide for registration and testing of check sellers who are not licensed; to provide for a bond to be posted by check sellers; to provide for a cease and desist order to be issued against noncompliant licensees; to provide a penalty for withholding or falsifying information submitted to the department; to provide for registered check cashers; to provide for background checks for check cashers; to place a limit on check-cashing fees; to provide for background checks for mortgage lenders or mortgage brokers; to provide for advertising restrictions; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to financial institutions generally, is amended by revising subparagraph (A) of paragraph (35) of Code Section 7-1-4, relating to definitions, as follows:

"(A) The sum of the capital stock, the paid-in capital, the appropriated retained earnings, and the capital debt of a bank or trust company less any amount of good will, core deposit intangibles, or other intangible assets related to the purchase, acquisition, or merger of a bank charter; or"

SECTION 2.

Said chapter is further amended in Code Section 7-1-286, relating to real estate loans, by revising subsection (a) in its entirety as follows:

"(a) A bank shall make loans secured by improved or unimproved real estate (including a leasehold) subject to the provisions of Part 365 of the Federal Deposit Insurance Corporation's rules and regulations, including 12 C.F.R. 365.1 and 365.2 and the Interagency Guidelines for Real Estate Lending Policies in Appendix A and 12 C.F.R.

208.51 and the guidelines contained in 12 C.F.R. Part 208 in the case of Federal Reserve member banks. Such loans shall also be subject to the additional provisions and exceptions as set forth in the rules of the department."

SECTION 3.

Said chapter is further amended in Code Section 7-1-437, relating to proxies, by revising subsection (a) as follows:

"(a) Unless otherwise unlawful, a person or corporation who is entitled to attend a shareholders' meeting, to vote thereat, or to execute consents, waivers, or releases may be represented at such meeting or vote thereat, and execute consents, waivers, and releases, and exercise any of his or her other rights, by one or more agents, who may be either an individual or individuals or any domestic or foreign corporation, authorized by a written proxy or electronic transmission of proxy executed by such person or by his or her attorney in fact."

SECTION 4.

Said chapter is further amended by revising Code Section 7-1-530, relating to authority to merge or consolidate and merger or consolidation across state lines, as follows:

"7-1-530.

(a) Upon compliance with the requirements of this part and other applicable laws and regulations, including any branching and minimum age laws and regulations, one or more banks or trust companies may merge or consolidate, provided that an institution exercising trust powers alone may merge or consolidate only with another such trust company. Upon compliance with the requirements of this part and other applicable laws and regulations, including any branching and minimum age laws and regulations, a corporation other than a bank or trust company may acquire all of the outstanding shares of one or more classes or series of one or more banks or trust companies through a share exchange.

(b) A corporation other than a bank or trust company may be merged into or consolidated with, or may enter into a share exchange with, a bank or trust company, provided that:

(1) The resulting institution of the merger or consolidation is a bank or trust company;

(2) The resulting institution of the merger or consolidation, or the acquired bank or trust company in a share exchange, holds only assets and liabilities and is engaged only in activities which may be held or engaged in by a bank or trust company; and

(3) The merger, share exchange, or consolidation is not otherwise unlawful.

(c) A merger, share exchange, or consolidation pursuant to subsection (b) of this Code section shall be made by compliance with the requirements of this part. Title 14 shall not be applicable to such a merger, share exchange, or consolidation.

(d) A merger, share exchange, or consolidation across state lines involving one or more banks or trust companies shall also be subject to the provisions of Part 20 of this article.

(e) In the case of a merger of a Georgia state bank with any other bank or banks, with the Georgia bank as the resulting bank, any assets, lines of business, activities, or powers

which may accrue to the resulting bank which would not be allowed for a Georgia state bank shall be provided for in the plan of merger. Such plan shall include the proposal for holding or disposal of such assets or the continuation or termination of such line of business, activity, or power. The department shall review the plan to determine whether, in the interest of safety and soundness and consistent with the other objectives of Code Section 7-1-3, the activity, power, asset, or line of business should be approved, denied, or phased out within a reasonable period of time, to be determined by the department.

(f) As used in this part, the term 'share exchange' means a plan of exchange of all of the outstanding shares of one or more classes or series of shares in accordance with this part.

(g) Subject to the provisions of this part, this Code section does not limit the power of a corporation other than a bank or trust company to acquire all or part of the shares of one or more classes or series of a bank or trust company through a voluntary exchange of shares or otherwise."

SECTION 5.

Said chapter is further amended in Code Section 7-1-531, relating to requirements for merger or consolidation plan and modification of the plan, by revising subsection (a) as follows:

"(a) The requirements for a merger, share exchange, or consolidation which must be satisfied by the parties thereto are as follows:

(1) The parties shall adopt a plan stating the method, terms, and conditions of the merger, share exchange, or consolidation, including the rights under the plan of the shareholders of each of the parties and any agreement concerning the merger, share exchange, or consolidation. Said plan shall specify:

(A) The name that such bank or trust company shall have upon and after such merger, share exchange, or consolidation, which may be the name of any one of the institutions or the combined names of two or more of the institutions or such other name as stated;

(B) The persons who shall constitute the board of directors of the bank or trust company after the merger, share exchange, or consolidation;

(C) In the case of a merger or consolidation, the manner and basis of converting the shares of each merged or consolidated institution into shares or other securities or obligations of the surviving bank or trust company and, if any shares of any of the merged or consolidated institutions are not to be converted solely into shares or other securities of the surviving bank or trust company, the amount of cash or securities of any other corporation, or combination of cash and such securities, which is to be paid or delivered to the holders of such shares in exchange for or upon the surrender of such shares, which cash or securities may be in addition to or in lieu of the shares or other securities of the surviving bank or trust company;

(D) In the case of a share exchange, the terms and conditions of the share exchange and the manner and basis of exchanging the shares to be acquired for shares, obligations, or other securities of the acquiring or any other corporation or for cash or other property in whole or in part; and

(E) Such other provisions with respect to the proposed merger or consolidation as are deemed desirable.

(2) Adoption of the plan by each party thereto shall require the affirmative vote of at least:

(A) A majority of the directors; and

(B) The shareholders entitled to cast two-thirds of the votes which all shareholders are entitled to cast thereon and, if any class of shares is entitled to vote thereon as a class, the holders of at least two-thirds of the outstanding shares of such class, at a meeting of shareholders.

(3) The notice shall include a copy or summary of the plan and a full statement of the rights and remedies of dissenting shareholders, the method of exercising them, and the limitations on such rights and remedies."

SECTION 6.

Said chapter is further amended by revising Code Section 7-1-532, relating to execution, contents, and filing of articles of merger or consolidation, as follows:

"7-1-532.

(a) Upon adoption of the plan of merger, share exchange, or consolidation as provided in Code Section 7-1-531, the parties to the merger, share exchange, or consolidation shall file in duplicate with the department articles of a merger, share exchange, or consolidation as required by this Code section, together with the fee required by Code Section 7-1-862.

(b) The articles of merger, share exchange, or consolidation shall be signed by two duly authorized officers of each party to the plan under their respective seals and shall contain:

(1) The names of the parties to the plan and of the resulting bank or trust company or the acquiring corporation in a share exchange;

(2) The street address and county of the location of the main office and registered agent and registered office of each;

(3) The votes by which the plan was adopted and the time, place, and notice of each meeting in connection with such adoption;

(4) The names and addresses of the first directors of the resulting bank or trust company or the directors of the acquired corporation in a share exchange;

(5) In the case of a merger, any amendment of the articles of the resulting bank or trust company;

(6) In the case of a consolidation, the provisions required in articles of a new bank or trust company by paragraphs (4), (5), (6), (7), and (10) of subsection (a) of Code Section 7-1-392; and

(7) The plan.

(c) Together with the articles of merger, share exchange, or consolidation, the parties shall deliver to the department a copy of the notice of merger, share exchange, or consolidation and an undertaking, which may appear in the articles of merger, share exchange, or consolidation or be set forth in a letter or other instrument executed by an officer or any

person authorized to act on behalf of such bank or trust company, that the request for publication of a notice of filing the articles of merger, share exchange, or consolidation and payment therefor will be made as required by subsection (d) of this Code section.

(d) No later than the next business day after filing the articles of merger, share exchange, or consolidation with the department, the parties shall mail or deliver to the publisher of a newspaper which is the official organ of the county where the main office of each party is located a notice which shall contain a statement that the articles of merger, share exchange, or consolidation have been filed with the department, the names of the institutions which are parties to the proposed merger, share exchange, or consolidation, and in the case of a merger the proposed name of the surviving bank or trust company, and shall designate a place where a copy of the articles of merger, share exchange, or consolidation may be examined. Subsections (b) and (c) of Code Section 7-1-7 shall also apply to the notice.

(e) The request for publication of the notice shall be accompanied by a check, draft, or money order in the proper amount in payment of the cost of publication. The notice shall be published once a week for two consecutive weeks commencing within ten days after receipt of the notice by the newspaper.

(f) In the event the plan is amended as provided in Code Section 7-1-531, the parties shall promptly file in duplicate with the department an amendment to the articles of consolidation, share exchange, or merger reflecting such amendment of the plan."

SECTION 7.

Said chapter is further amended by revising Code Section 7-1-533, relating to additional filings with plans of merger or consolidation, as follows:

"7-1-533.

The parties to the plan shall also file with the department:

(1) An application and information desired by the department in order to evaluate the proposed merger, share exchange, or consolidation, which shall be made available in the form specified by the department;

(2) Applicable fees established by regulation of the department to defray the expenses of the investigation required by Code Section 7-1-534; and

(3) If the merger, share exchange, or consolidation involves the adoption of a new name, a certificate of the Secretary of State reserving said name under Code Section 7-1-131."

SECTION 8.

Said chapter is further amended by revising Code Section 7-1-534, relating to approval or disapproval of articles of consolidation or merger by department, as follows:

"7-1-534.

(a) Upon receipt of the articles of consolidation, share exchange, or merger and the filings required by Code Section 7-1-533, the department shall conduct such investigation as it may deem necessary to ascertain whether:

(1) The articles of merger, share exchange, or consolidation and supporting items satisfy the requirements of this chapter;

(2) The plan and any modification thereof adequately protect the interests of depositors, other creditors, and shareholders;

(3) The requirements for a merger, share exchange, or consolidation under all applicable laws have been satisfied and the resulting bank or trust company or the acquired bank or trust company in a share exchange would satisfy the requirements of this chapter applicable to it; and

(4) The merger, share exchange, or consolidation would be consistent with adequate and sound banking or fiduciary practice and in the public interest on the basis of:

(A) The financial history and condition of the parties to the plan;

(B) Their prospects;

(C) The character of their management; and

(D) The convenience and needs of the area primarily to be served by the resulting institution, or by the acquiring corporation and the acquired bank or trust company in a share exchange.

(b) Within 90 days after receipt of the articles of merger, share exchange, or consolidation, the notice of merger or share exchange, and the filings required by Code Section 7-1-533, or within an additional period of not more than 30 days after an amendment to the application is received within the initial 90 day period, the department shall, in its discretion, approve or disapprove the articles on the basis of its investigation and the criteria set forth in subsection (a) of this Code section. Except as provided in Code Section 7-1-535, the department shall give the Secretary of State written notice of its approval with a copy of the articles of merger, share exchange, or consolidation and a copy of the notice of merger or share exchange attached. The department shall also give the parties to the plan written notice of its decision and, in the event of disapproval, a statement in general of the reasons for its decision. The decision of the department shall be conclusive, except that it may be subject to judicial review as provided in Code Section 7-1-90."

SECTION 9.

Said chapter is further amended by revising Code Section 7-1-535, relating to procedure after approval of articles by department and the issuance of a certificate of merger or consolidation, as follows:

"7-1-535.

(a) If the laws of the United States require the approval of the merger, share exchange, or consolidation by any federal agency, the department may, at its option, after its approval, retain its notice to the Secretary of State until it receives notice of the decision of such agency. If such agency shall refuse to give its approval, the department may, at its option, notify the parties to the plan that the department's approval has been rescinded for that reason. If such agency gives its approval, the department shall deliver its written approval

to the Secretary of State for issuance of a certificate of merger, share exchange, or consolidation by the Secretary of State and shall notify the parties to the plan.

(b) If all the taxes, fees, and charges required by law shall have been paid and if the name of the resulting bank or trust company in a merger or consolidation continues to be reserved or is available on the records of the Secretary of State, upon receipt of the written approval of the department, the Secretary of State shall issue to the resulting bank or trust company or the acquiring corporation in a share exchange a certificate of merger, share exchange, or consolidation with the approved articles of merger or consolidation attached thereto and shall retain a copy of such certificate, articles, and approval by the department."

SECTION 10.

Said chapter is further amended by revising Code Section 7-1-536, relating to the effect of merger or consolidation, as follows:

"7-1-536.

(a) As of the issuance of the certificate of merger, share exchange, or consolidation by the Secretary of State, the merger, share exchange, or consolidation shall be effective.

(b) The certificate of merger, share exchange, or consolidation shall be conclusive evidence of the performance of all conditions precedent to the merger, share exchange, or consolidation and of the existence or creation of the bank or trust institution, except as against the state.

(c) When a merger or consolidation becomes effective, each party to the plan, except the resulting bank or trust company, shall cease to exist as a separate entity but shall continue in, and the parties to the plan shall be, a single corporation which shall be the bank or trust company and which shall have, without further act or deed, all the property, rights, powers, trusts, duties, and obligations of each party to the plan. When a share exchange becomes effective, the shares of each acquired bank or trust company are exchanged as provided in the plan, and the former holders of the shares are entitled only to the share exchange rights provided in the plan of share exchange or to their rights under Code Section 7-1-537.

(d) The articles of the resulting bank or trust company shall be, in the case of a merger, the same as its articles prior to the merger with any change stated in the articles of merger or, in the case of a consolidation, the provisions stated in the articles of consolidation.

(e) The resulting bank or trust company, or the acquired bank or trust company in a share exchange, shall have the authority to engage only in such business and exercise only such powers as are then permissible upon original incorporation under this chapter and shall be subject to the same prohibitions and limitations as it would then be subject to upon original incorporation. It may, however, subject to permission of the department as set out in Code Sections 7-1-530 and 7-1-555, engage in any business and exercise any right that any bank or trust company which is a party to the plan could lawfully exercise or engage in immediately prior to the merger, share exchange, or consolidation.

(f) No liability of any party to the plan or of its shareholders, directors, or officers shall be affected nor shall any lien on any property of a party to the plan be impaired by the merger,

share exchange, or consolidation. Any claim existing or action pending by or against any party to the plan may be prosecuted to judgment as if the merger, share exchange, or consolidation had not taken place or the resulting bank or trust company may be substituted in its place."

SECTION 11.

Said chapter is further amended by revising Code Section 7-1-537, relating to rights of dissenting shareholders and the surrender of stock certificates, as follows:

"7-1-537.

(a) A shareholder of a bank or trust company which is a party to a plan of proposed merger, share exchange, or consolidation under this part who objects to the plan shall be entitled to the rights and remedies of a dissenting shareholder as determined under Chapter 2 of Title 14, known as the 'Georgia Business Corporation Code.'

(b) The bank or trust company into which the other or others have been merged or consolidated, or the acquiring corporation in a share exchange, as the case may be, shall have the right to require the return of the original certificates of stock held by each shareholder in each or either of the institutions and in lieu thereof:

(1) To issue to each shareholder new certificates for such number of shares of the institution into which the others shall have been merged or consolidated or of the acquiring corporation in a share exchange; or

(2) To cause to be paid or delivered to each shareholder the amount of cash or securities of any other corporation or combination of cash and such securities as, under the plan of merger, share exchange, or consolidation, the said shareholder may be entitled to receive."

SECTION 12.

Said chapter is further amended by revising Code Section 7-1-557, relating to merger or consolidation of nonbank corporations into national banks, as follows:

"7-1-557.

A national bank located in this state may merge or consolidate with, or enter into a share exchange with, a corporation other than a bank or trust company, provided that:

(1) Such merger, share exchange, or consolidation is permitted by the laws of the United States and such laws are complied with;

(2) The laws governing the merger, share exchange, or consolidation of such corporation are complied with;

(3) The resulting institution of the merger or consolidation, or the acquired bank in a share exchange, is a national bank;

(4) The resulting institution of the merger or consolidation, or the acquired bank in a share exchange, holds only assets and liabilities and engages only in activities which may be held or engaged in by a national bank located in this state; and

(5) The merger, share exchange, or consolidation is not otherwise unlawful."

SECTION 13.

Said chapter is further amended in Code Section 7-1-601, relating to branch offices, by revising paragraph (2) of subsection (a) as follows:

"(2) New or additional branch offices may be established through merger, share exchange, consolidation, or sale of assets pursuant to Part 14, 15, 16, 19, or 20 of this article;"

SECTION 14.

Said chapter is further amended in Code Section 7-1-606, relating to unlawful actions by bank holding companies unless prior approval of commissioner is received, by revising subparagraphs (a)(1)(E), (b)(1)(A), and (b)(1)(B) as follows:

"(E) For any bank holding company to merge or consolidate with, or enter into a share exchange with, any other bank holding company; or"

"(A) Any acquisition or merger or share exchange or consolidation under this Code section which would result in a monopoly or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the State of Georgia; or

(B) Any other proposed acquisition or merger or share exchange or consolidation under this Code section whose effect in any section of the state may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served."

SECTION 15.

Said chapter is further amended in Code Section 7-1-608, relating to lawful and unlawful acquisitions, formations, and mergers by bank holding companies, by revising paragraph (3) of subsection (b) as follows:

"(3) A bank holding company registered with the department and lawfully owning a bank or a branch of a bank which was formed by the acquisition and subsequent merger of or share exchange with a Georgia bank, which bank or branch does a lawful banking business in this state, may acquire control through formation of a de novo bank in Georgia, provided that departmental approval and any required federal approvals are obtained. No out-of-state bank holding company may enter Georgia to do a banking business by formation of a de novo bank; and"

SECTION 16.

Said chapter is further amended in Code Section 7-1-670, relating to third-party payment services offered by credit unions, by revising subsection (c) as follows:

"(c) Upon the commencement of third-party payment services, a credit union shall be subject to Code Sections 7-1-287, pertaining to investment securities; 7-1-288, pertaining

to corporate stock and securities; 7-1-371, pertaining to legal reserve requirements; and rules and regulations of the department relating to the foregoing Code sections of law and shall not pay a greater rate of interest on third-party payment accounts than is allowed to be paid by commercial banks."

SECTION 17.

Said chapter is further amended by revising Code Section 7-1-681, relating to license required for selling checks, as follows:

"7-1-681.

No person or corporation, other than a bank or trust company, a credit union, a savings and loan association, or a savings bank, whether state or federally chartered, the deposits of which are federally insured, the authorized agent of a licensee, or the United States Postal Service shall engage in the business of selling or issuing checks without having first obtained a license under this article. This restriction applies to any nonresident person or corporation that engages in this state in the business of selling or issuing checks through a branch, subsidiary, affiliate, or agent in this state. A license for the sale of checks or money orders shall also qualify as a license for the business of money transmission. The provisions of this article shall also apply to the business of money transmission unless specifically excluded."

SECTION 18.

Said chapter is further amended by revising Code Section 7-1-682, relating to qualifications of licensees to sell checks or money orders, as follows:

"7-1-682.

(a) In order to qualify for a license under this article, an applicant shall:

(1) Satisfy the department that it is financially sound and responsible and appears able to conduct the business of selling checks in an honest and efficient manner and with confidence and trust of the community; and

(2) Comply with the bonding requirements, furnish the statements, and pay the fees prescribed in this article. In the case of a money transmitter, the department may in its discretion require only a bond.

(b) In addition to the qualifications set forth in subsection (a) of this Code section, the department may require a licensee to maintain investments having an aggregate market value at least equal to the amount of outstanding checks issued or sold. The department may promulgate regulations establishing those investments which shall be deemed permissible investments for the purpose of complying with this subsection. Permissible investments, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding checks in the event of bankruptcy of the licensee.

(c) The department shall not issue such license or may revoke a license if it finds that the applicant or licensee, any person who is a director, officer, partner, agent, employee, or

ultimate equitable owner of 10 percent or more of the applicant or licensee, or any individual who directs the affairs or establishes policy for the applicant or licensee has been convicted of a felony involving moral turpitude in any jurisdiction or of a crime which, if committed within this state, would constitute a felony involving moral turpitude under the laws of this state. For the purposes of this article, a person shall be deemed to have been convicted of a crime if such person shall have pleaded guilty to a charge thereof before a court or federal magistrate or shall have been found guilty thereof by the decision or judgment of a court or federal magistrate or by the verdict of a jury, irrespective of the pronouncement of sentence or the suspension thereof, unless such plea of guilty or such decision, judgment, or verdict shall have been set aside, reversed, or otherwise abrogated by lawful judicial process and regardless of whether first offender treatment without adjudication of guilt pursuant to the charge was entered, unless and until such plea of guilty or such decision, judgment, or verdict shall have been set aside, reversed, or otherwise abrogated by lawful judicial process or until probation, sentence, or both probation and sentence of a first offender have been successfully completed and documented or unless the person convicted of the crime shall have received a pardon therefor from the President of the United States or the governor or other pardoning authority in the jurisdiction where the conviction was had, or shall have received an official certification or pardon granted by the State Board of Pardons and Paroles which removes the legal disabilities resulting from such conviction and restores civil and political rights in this state.

(d) The department shall be authorized to obtain conviction data with respect to any applicant or any person who is a director, officer, partner, agent, employee, or ultimate equitable owner of 10 percent or more of the applicant or licensee or any individual who directs the affairs or establishes policy for the applicant or licensee. Upon receipt of information from the Georgia Crime Information Center that is incomplete or that indicates an applicant or any person who is a director, officer, partner, agent, employee, or ultimate equitable owner of 10 percent or more of the applicant or licensee or any individual who directs the affairs or establishes policy for the applicant or licensee has a criminal record in a state other than Georgia, the department shall submit to the Georgia Crime Information Center two complete sets of fingerprints of such applicant or such person, the required records search fees, and such other information as may be required. Fees for background checks that the department administers shall be submitted to the department by applicants and licensees together with two completed sets of fingerprint cards. Upon receipt thereof, the Georgia Crime Information Center shall promptly transmit one set of fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall retain the other set and promptly conduct a search of its own records and records to which it has access. The Georgia Crime Information Center shall notify the department in writing of any derogatory finding, including, but not limited to, any conviction data regarding the fingerprint records check, or if there is no such finding. All conviction data received by the department shall be used by the department for the exclusive purpose of carrying out its responsibilities under this article, shall not be a public record, shall be

privileged, and shall not be disclosed to any other person or agency except to any person or agency which otherwise has a legal right to inspect the file. All such records shall be maintained by the department pursuant to laws regarding such records and the rules and regulations of the Federal Bureau of Investigation and the Georgia Crime Information Center, as applicable. As used in this subsection, 'conviction data' means a record of a finding, verdict, or plea of guilty or a plea of nolo contendere with regard to any crime, regardless of whether an appeal of the conviction has been sought.

(e) Every applicant and licensee shall be authorized and required to obtain and maintain the results of background checks on employees and agents working in or for the applicant or licensee. Such background checks shall be handled by the Georgia Crime Information Center pursuant to Code Section 35-3-34 and the rules and regulations of the Georgia Crime Information Center. Applicants and licensees shall be responsible for any applicable fees charged by the Georgia Crime Information Center. An applicant or licensee shall only employ a person whose background data has been checked and been found to be satisfactory prior to the initial date of hire. This provision does not apply to directors, officers, partners, agents, or ultimate equitable owners of 10 percent or more or to persons who direct the company's affairs or establish policy, whose background must have been investigated through the department before taking office, beginning employment, or securing ownership. Upon receipt of information from the Georgia Crime Information Center that is incomplete or that indicates an employee has a criminal record in any state other than Georgia, the employer shall submit to the department two complete sets of fingerprints of such person, together with the applicable fees and any other required information. The department shall then submit such fingerprints as provided in subsection (d) of this Code section.

(f) Such license issued by the department shall be kept conspicuously posted in the place of business of the licensee. Such license shall not be transferable, assignable, or subject to a change of ownership."

SECTION 19.

Said chapter is further amended by revising Code Section 7-1-683, relating to license application for check sellers, as follows:

"7-1-683.

(a) Each application for a license shall be in writing and under oath to the department, in such form as it may prescribe, and shall include the following:

(1) The legal name and principal office address of the corporation applying for the license;

(2) The name, residence, and business address of each director or equivalent official and of each officer who will be involved in selling checks in this state;

(3) The date and place of incorporation;

(4) If the applicant has one or more branches, subsidiaries, affiliates, agents, or other locations at or through which the applicant proposes to engage in the business of selling

or issuing checks within the State of Georgia, the complete name of each and the address of each such location;

(5) The location where its initial registered office will be located in this state; and

(6) Such other data, financial statements, and pertinent information as the department may require with respect to the applicant, its directors, trustees, officers, members, branches, subsidiaries, affiliates, or agents and any individual who directs the affairs or establishes policy for the applicant or licensee.

(b) The application shall be filed together with the following financial requirements:

(1) An investigation and supervision fee established by regulation of the department, which shall not be refundable but which, if the license is granted, shall satisfy the fee requirement for the first license year or the remaining part thereof; and

(2) A corporate surety bond issued by a bonding company or insurance company authorized to do business in this state and approved by the department. The bond for check sellers shall be in the principal sum of $100,000.00, and the bond for money transmitters shall be in the principal sum of $50,000.00. The amount of this bond shall be increased by an additional $5,000.00 for each location, other than the licensee's primary place of business, at or through which the applicant proposes to engage in the business of selling or issuing checks in this state, until the principal sum of the bond shall total a maximum of $250,000.00. In addition to the coverage provided for in this Code section, the department may require additional coverage for the adequate protection of check holders if the average daily balances outstanding for check sellers or, if the outstanding orders to transmit not yet paid for money transmitters, exceed $250,000.00. Written reports that reveal a licensee's level of holdings shall be made at intervals during the year as required by regulations. If required by the department the additional coverage shall be limited to $1,250,000.00 or the amount of the average daily balances or orders outstanding in the State of Georgia for the preceding year, whichever is less. The total maximum amount of such bond coverage under this paragraph and paragraph (1) of this subsection will be $1,500,000.00. The bond shall be in a form satisfactory to the department and shall run to the State of Georgia for the benefit of any check holders against the licensee or his or her agents. The condition of the bond shall be that the licensee will pay any and all moneys that may become due and owing any creditor of or claimant against the licensee arising out of the licensee's business of selling or issuing checks in this state, whether through its own act or the acts of an agent. The aggregate liability of the surety in no event shall exceed the principal sum of the bond. Claimants against the licensee may themselves bring an action directly on the bond. The liability arising under this paragraph shall be limited to the receipt, handling, transmission, and payment of money arising out of the licensee's business of selling or issuing checks in this state.

(c) As an option to the bond for check sellers, provided the department approves, in lieu of such corporate surety bond or bonds or of any portion of the principal thereof, the applicant may deposit with a Georgia state-chartered bank or trust company located in this

state, as such applicant may designate and the department may approve, certificates of deposit insured by a federal agency, bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality thereof or guaranteed by the United States or of the State of Georgia to an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of the required corporate surety bond or portion thereof. These assets shall be held to secure the same obligations as would the surety bond and must be dedicated by the licensee solely for the purpose of meeting the financial obligations required to maintain the check seller license in this state and may not be dedicated to meet check seller licensing requirements for other jurisdictions; but the licensee shall be entitled to receive all interest thereon and shall have the right, with the approval of the department, to substitute other assets approved by this Code section for those deposited and shall be required to do so on written order of the department made for good cause shown; provided, however, if the licensee substitutes assets more than once during the license period the department may charge a fee for the processing of such substitution to be prescribed by regulations of the department. In the event of the failure or insolvency of such licensee, the assets, any proceeds therefrom, and the funds deposited pursuant to this Code section shall be applied to the payment in full of claims arising out of transactions in this state for the sale or issuance of checks. Failure to properly maintain dedicated assets for the purpose of meeting the financial requirements for licensure may result in a fine, or the revocation or suspension of the license, at the discretion of the department. This subsection shall apply to check sellers only and not to money transmitters."

SECTION 20.

Said chapter is further amended in Code Section 7-1-686, relating to notice of action against licensees or change in number of locations, by revising subsection (b) as follows:

"(b) A licensee shall give notice to the department by registered or certified mail or statutory overnight delivery of the name and address of any new or additional locations at which it engages in the business of selling or issuing checks over the number previously reported in either its original or renewal application and shall show to the department that the bond or assets required under Code Section 7-1-683 have been increased accordingly. This notice shall be given to the department by the licensee as follows:

(1) For the period January 1 through June 30 of each year, on the first business day of September; and

(2) For the period July 1 through December 31 of each year, on the first business day of March.

Failure to provide such notice shall be punished with a fine, other administrative action, or both. At any time the department is shown that a licensee has decreased the number of locations at or through which it proposes to engage in the business, the department may decrease the bond or security requirements accordingly."

SECTION 21.

Said chapter is further amended by revising Code Section 7-1-687, relating to agents of licensees, as follows:

"7-1-687.

A licensee may conduct its business at one or more locations in this state, so long as such locations have been included in the licensee's application and reports under Code Sections 7-1-683 and 7-1-686, and through such agents as it may designate. The department may within ten days after application, for cause, refuse to approve a licensee's designation of an agent or, for cause, suspend a licensee's designation of an agent. In such cases the agent shall have the same procedural rights as are provided in this article for the denial, suspension, or revocation of a licensee's license. No additional license other than that obtained by the licensee shall be required of any duly reported agent of a licensee. An agent of a licensee shall sell or issue checks only at the location designated in the licensee's report to the department or at other locations of which the department first has been notified in writing."

SECTION 22.

Said chapter is further amended in Code Section 7-1-689, relating to denial, suspension, and revocation of license or designation of agent, by revising subsections (a) and (b) as follows:

"(a) The department may suspend or revoke an original or renewal license or the designation of an agent of a licensee on any ground on which it might refuse to issue an original license or for a violation of any provision of this article or any rule or regulation issued under this article or for failure of the licensee to pay, within 30 days after it becomes final, a judgment recovered in any court within this state by a claimant or creditor in an action arising out of the licensee's business in this state of selling or issuing checks. If a cease and desist order is issued by the department to a licensee who has been sent a notice of bond cancellation and if the required bond is reinstated or replaced and such documentation is delivered to the department within the 30 day period following the date of issuance of the order, the order shall be rescinded. If the notice of reinstatement of the bond is not received by the department within the 30 days, the license shall expire at the end of the 30 day period and the licensee shall be required to make a new application for a license and pay all applicable fees.

(b) Notice of the department's intention to enter an order denying an application for a license under this article or of an order suspending or revoking a license under this article shall be given to the applicant or licensee in writing, sent by registered or certified mail or statutory overnight delivery addressed to the principal place of business of such applicant or licensee. Within 20 days of the date of the notice of intention to enter an order of denial, suspension, or revocation under this article, the applicant or licensee may request in writing a hearing to contest the order. If a hearing is not requested in writing within 20 days of the date of such notice of intention, the department shall enter a final order regarding the denial, suspension, or revocation. Any final order of the department denying, suspending,

or revoking a license shall state the grounds upon which it is based and shall be effective on the date of issuance. A copy thereof shall be forwarded promptly by registered or certified mail or statutory overnight delivery addressed to the principal place of business of such applicant or licensee. If a person refuses to accept service of the notice or order by registered or certified mail or statutory overnight delivery, the notice or order shall be served by the commissioner or the commissioner's authorized representative under any other method of lawful service; and the person shall be personally liable to the commissioner for a sum equal to the actual costs incurred to serve the notice or order. This liability shall be paid upon notice and demand by the commissioner or the commissioner's representative and shall be assessed and collected in the same manner as other fees or fines administered by the commissioner."

SECTION 23.

Said chapter is further amended in Code Section 7-1-689.1, relating to issuance of cease and desist order for noncompliance by licensee, by revising subsections (a), (b), (c), and (e) as follows:

"(a) Whenever it shall appear to the department that any person has violated any law of this state or any order or regulation of the department under this article or is operating without a required license, the department may issue an initial written order requiring such person to cease and desist immediately from such unauthorized practices. Such cease and desist order shall be final 20 days after it is issued unless the person to whom it is issued makes a written request for a hearing within such 20 day period. The hearing shall be conducted in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' A cease and desist order issued to an unlicensed person that orders such person to cease doing business without the appropriate license shall be final 30 days from the date of issuance and there shall be no opportunity for an administrative hearing. If the proper license or evidence of exemption for the time period cited in the order is obtained within the 30 day period, the order shall be rescinded by the department. Any cease and desist order sent to the person at both his or her personal and business addresses pursuant to this Code section that is returned to the department as 'refused' or 'unclaimed' shall be deemed as received and sufficiently served.

(b) Whenever a person shall fail to comply with the terms of an order of the department which has been properly issued under the circumstances, the department may, through the Attorney General and upon notice of three days to such person, petition the principal court for an order directing such person to obey the order of the department within the period of time as shall be fixed by the court. Upon the filing of such petition the court shall allow a motion to show cause why it should not be granted. After a hearing upon the merits or after failure of such person to appear when ordered, the court shall grant the petition of the department upon a finding that the order of the department was properly issued.

(c) Any person who violates the terms of any order issued pursuant to this Code section shall be liable for a civil penalty not to exceed $1,000.00. Each day the violation continues

shall constitute a separate offense. In determining the amount of a penalty, the department shall take into account the appropriateness of the penalty relative to the size of the financial resources of such person, the good faith efforts of such person to comply with the order, the gravity of the violation, the history of previous violations by such person, and such other factors or circumstances as shall have contributed to the violation. The department may at its discretion compromise, modify, or refund any penalty which is subject to being imposed or has been imposed pursuant to this Code section. Any person assessed pursuant to this subsection shall have the right to request a hearing into the matter within ten days after notification of the assessment has been served upon the licensee involved; otherwise, such penalty shall be final except as to judicial review as provided in Code Section 7-1-90."

"(e) For purposes of this Code section, the term 'person' includes an individual, any entity required to be licensed, and a licensee, officer, director, employee, agent, or other person participating in the conduct of the affairs of the person subject to the orders issued pursuant to this Code section."

SECTION 24.

Said chapter is further amended in Code Section 7-1-692, relating to prohibited transactions, by adding a new subsection to read as follows:

"(c) No person required to be licensed under this article shall purposely withhold, delete, destroy, or alter information requested by an examiner or other official of the department or make false statements or material misrepresentations to the department."

SECTION 25.

Said chapter is further amended by revising Code Section 7-1-700, relating to definitions relevant to check cashers, as follows:

"7-1-700.

As used in this article, the term:

(1) 'Check casher' means an individual, partnership, association, or corporation engaged in cashing checks, money orders, or other drafts for a fee. Such fee may be payable in cash, in the form of exchange of value in excess of regular retail value, in the form of mandatory purchase of goods or services by patrons, or in the form of the purchase of catalog items or coupons or other items indicating the ability to receive goods, services, or catalog items.

(2) 'Licensed casher of checks' means any individual, partnership, association, or corporation duly licensed by the Department of Banking and Finance to engage in business pursuant to the provisions of this article.

(3) 'Licensee' means a licensed casher of checks, drafts, or money orders.

(4) 'Registered casher of checks' or 'registrant' means any individual, partnership, association, or corporation engaged in cashing checks, money orders, or other drafts for a fee limited to the greater of $2.00 or 2 percent of the face amount of the check. Such fee may be payable in cash, in the form of exchange of value in excess of regular retail

value, in the form of mandatory purchase of goods or services by patrons, or in the form of the purchase of catalog items or coupons or other items indicating the ability to receive goods, services, or catalog items. A registered casher of checks shall not advertise its check cashing services and shall be duly registered by the Department of Banking and Finance to engage in business pursuant to the provisions of this article."

SECTION 26.

Said chapter is further amended by revising Code Section 7-1-701, relating to licensure of check cashers, as follows:

"7-1-701.

(a) No person, partnership, association, or corporation shall engage in the business of cashing checks, drafts, or money orders for a consideration without first obtaining a license or registration under this article. The term 'consideration' shall include any premium charged for the sale of goods in excess of the cash price of such goods.

(b) Each application for a license or registration shall be in writing and under oath to the department, in such form as the department may prescribe, and shall include the following:

(1) The legal name, residence, and business address of the applicant and, if the applicant is a partnership, association, or corporation, of every member, officer, and director thereof;

(2) The location where the initial registered office of the applicant will be located in this state;

(3) The complete address of any other locations at which the applicant proposes to engage in cashing checks; and

(4) Such other data, financial statements, and pertinent information as the department may require with respect to the applicant, its directors, trustees, officers, members, or agents.

(c) The application for license or registration shall be filed together with an investigation and supervision fee established by regulation which shall not be refundable but which, if the license or registration is granted, shall satisfy the fee requirement for the first licensed or registered year or the remaining part thereof."

SECTION 27.

Said chapter is further amended by revising Code Section 7-1-702, relating to background investigation of applicants for check casher's licenses, as follows:

"7-1-702.

(a) The department shall conduct an investigation of every applicant for license or registration to determine the financial responsibility, experience, character, and general fitness of the applicant. If the department determines to its general satisfaction:

(1) That the applicant is financially responsible and appears to be able to conduct the business of cashing checks in an honest, fair, and efficient manner and with the confidence and trust of the community; and

(2) That the granting of such application will promote the convenience and advantage of the area in which the business is to be conducted,

the department shall issue the applicant a license or registration to engage in the business of cashing checks.

(b) The department shall not issue such a license or registration or may revoke a license or registration if it finds that the applicant, licensee, or registrant or any person who is a director, officer, partner, agent, employee, or ultimate equitable owner of 10 percent or more of the applicant, licensee, or registrant or any individual who directs the affairs or establishes policy for the applicant, licensee, or registrant has been convicted of a felony involving moral turpitude in any jurisdiction or of a crime which, if committed within this state, would constitute a felony involving moral turpitude under the laws of this state. For the purposes of this article, a person shall be deemed to have been convicted of a crime if such person shall have pleaded guilty to a charge thereof before a court or federal magistrate or shall have been found guilty thereof by the decision or judgment of a court or federal magistrate or by the verdict of a jury, irrespective of the pronouncement of sentence or the suspension thereof, unless such plea of guilty or such decision, judgment, or verdict shall have been set aside, reversed, or otherwise abrogated by lawful judicial process and regardless of whether first offender treatment without adjudication of guilt pursuant to the charge was entered, unless and until such plea of guilty or such decision, judgment, or verdict shall have been set aside, reversed, or otherwise abrogated by lawful judicial process or until probation, sentence, or both probation and sentence of a first offender have been successfully completed and documented or unless the person convicted of the crime shall have received a pardon therefor from the President of the United States or the governor or other pardoning authority in the jurisdiction where the conviction was had, or shall have received an official certification or pardon granted by the State Board of Pardons and Paroles which removes the legal disabilities resulting from such conviction and restores civil and political rights in this state.

(c) The department shall be authorized to obtain conviction data with respect to any applicant, licensee, or registrant or any person who is a director, officer, partner, agent, employee, or ultimate equitable owner of 10 percent or more of the applicant, licensee, or registrant or any individual who directs the affairs or establishes policy for the applicant, licensee, or registrant. Upon receipt of information from the Georgia Crime Information Center that is incomplete or that indicates an applicant, licensee, or registrant or any person who is a director, officer, partner, agent, employee, or ultimate equitable owner of 10 percent or more of the applicant, licensee, or registrant or any individual who directs the affairs or establishes policy for the applicant, licensee, or registrant has a criminal record in a state other than Georgia, the department shall submit to the Georgia Crime Information Center two complete sets of fingerprints of such applicant or such person, the required records search fees, and such other information as may be required. Fees for background checks that the department administers shall be submitted to the department by applicants, licensees, or registrants together with two complete sets of fingerprints. Upon receipt

thereof, the Georgia Crime Information Center shall promptly transmit one set of fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall retain the other set and promptly conduct a search of its own records and records to which it has access. The Georgia Crime Information Center shall notify the department in writing of any derogatory finding, including, but not limited to, any conviction data regarding the fingerprint records check, or if there is no such finding. All conviction data received by the department shall be used by the department for the exclusive purpose of carrying out its responsibilities under this article, shall not be a public record, shall be privileged, and shall not be disclosed to any other person or agency except to any person or agency which otherwise has a legal right to inspect the file. All such records shall be maintained by the department pursuant to laws regarding such records and the rules and regulations of the Federal Bureau of Investigation and the Georgia Crime Information Center, as applicable. As used in this subsection, 'conviction data' means a record of a finding, verdict, or plea of guilty or a plea of nolo contendere with regard to any crime, regardless of whether an appeal of the conviction has been sought.

(d) Every applicant, licensee, and registrant shall be authorized and required to obtain and maintain the results of background checks on employees working in the licensed business. Such background checks shall be handled by the Georgia Crime Information Center pursuant to Code Section 35-3-34 and the rules and regulations of the Georgia Crime Information Center. Applicants, licensees, and registrants shall be responsible for any applicable fees charged by the Georgia Crime Information Center. An applicant, licensee, or registrant may only employ a person whose background data has been checked and been found to be satisfactory prior to the initial date of hire. This provision does not apply to directors, officers, partners, agents, or ultimate equitable owners of 10 percent or more or to persons who direct the company's affairs or establish policy, whose background must have been investigated through the department before taking office, beginning employment, or securing ownership. Upon receipt of information from the Georgia Crime Information Center that is incomplete or that indicates an employee has a criminal record in any state other than Georgia, the employer shall submit to the department two complete sets of fingerprints for such person, together with the applicable fees and any other required information. The department shall submit such fingerprints as provided in subsection (c) of this Code section.

(e) Such license or registration shall be kept conspicuously posted in the place of business of the licensee or registrant. Such license or registration shall not be transferable, assignable, or subject to a change of ownership without prior application to and approval by the department.

(f) Except as otherwise specifically provided in this article, all licenses and registrations issued pursuant to this article shall expire on September 30 of each year, and application for renewal shall be made annually on or before August 1 of each year. Any new license or registration granted after July 1 in any year will not be required to be renewed until the next calendar year renewal period."

SECTION 28.

Said chapter is further amended in Code Section 7-1-704, relating to rules and regulations for enforcement of article and the examination of books and records of licensees, by revising subsections (b) through (d) as follows:

"(b) To assure compliance with the provisions of this article and in consideration of any application to renew a license or registration pursuant to the provisions of Code Section 7-1-703, the department or its designated agent may examine the books and records of any licensee or registrant to the same extent as it is authorized to examine financial institutions under this chapter. Each licensee or registrant shall pay an examination fee as established by regulations of the department to cover the cost of such examination.

(c) To assure compliance with the provisions of this article, the department may review the fees charged and fee income of any person cashing checks for a fee who claims exemption from licensing or claims to be a registered casher of checks. Each person who is reviewed shall pay an hourly fee as provided in departmental regulations when the review requires more than four examiner hours and the review results in a finding that a license or registration is required. The department, in its discretion, may permit the party claiming exemption or registration to supply to the department the necessary books and records for its review at department headquarters.

(d) The department shall remit all examination fees paid by licensees and registrants in accordance with Code Section 7-1-43, net of any cost paid to third parties authorized by the department to perform such examination services."

SECTION 29.

Said chapter is further amended by revising Code Section 7-1-705, relating to notice to be posted by licensee, record-keeping requirements, and check cashing procedures, as follows:

"7-1-705.

(a) In every location licensed or registered under this article, there shall be conspicuously posted and at all times displayed a notice stating the charges for cashing checks.

(b) Each licensee or registrant shall keep and use in its business such books, accounts, and records as the department may require to carry into effect the provisions of this article and the rules and regulations. Every licensee or registrant shall preserve such books, accounts, and records for at least two years.

(c) Before a licensee or registrant shall deposit with any bank a check, draft, or money order cashed by such licensee or registrant, the same must be endorsed with the actual name under which such licensee or registrant is doing business.

(d)(1) No licensee or registrant shall receive any check, draft, or money order with payment deferred pending collection. Payment shall be made immediately in cash for every check, draft, or money order accepted by the licensee or registrant.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, drafts may be accepted for collection with payment deferred where the licensee or registrant has posted a surety bond in the same manner as prescribed for check sales licensees under Code

Section 7-1-683. The amount of the surety bond shall be $10,000.00 for each location operated by the licensee or registrant if the licensee or registrant operates three or fewer locations. For a fourth or fifth location operated by a licensee or registrant, the amount of the surety bond shall be $5,000.00 for each such location. For each location operated by a licensee or registrant in excess of a fifth location, the amount of the surety bond shall be $1,000.00. In no event shall payment of a draft be deferred past the time that the licensee or registrant has collected on the draft. Upon collection, payment shall be made immediately to the party from whom the licensee or registrant accepted the draft.

(e) No licensee or registrant shall cash a check, draft, or money order made payable to a payee other than a natural person unless such licensee or registrant has previously obtained appropriate documentation from the executive entity of such payee clearly indicating the authority of the natural person or persons cashing the check, draft, or money order on behalf of the payee.

(f) No licensee or registrant shall cash checks without identification of the bearer of such check, and any person seeking to cash a check shall be required to submit such reasonable identification as shall be prescribed by the department; provided, however, the provisions of this subsection shall not prohibit a licensee or registrant from cashing a check simultaneously with the verification and establishment of the identity of the presenter by means other than the presentation of identification.

(g) Within five business days after being advised by the payor financial institution that a check, draft, or money order has been altered, forged, stolen, obtained through fraudulent or illegal means, negotiated without proper legal authority, or represents the proceeds of illegal activity, the licensee or registrant shall notify the department and the district attorney for the judicial circuit in which the check was received. In the event a check, draft, or money order is returned to the licensee or registrant by the payor financial institution for any of the aforementioned reasons, the licensee or registrant may not release the check, draft, or money order without the consent of the district attorney or other investigating law enforcement authority."

SECTION 30.

Said chapter is further amended in Code Section 7-1-706, relating to check-cashing fees, by designating the existing text as subsection (a) and by adding a new subsection to read as follows:

"(b) No registered casher of checks shall charge check-cashing fees, except as otherwise provided in this Code section, in excess of 2 percent of the face amount of the check or draft or $2.00, whichever is greater."

SECTION 31.

Said chapter is further amended by revising Code Section 7-1-707, relating to suspension or revocation of check casher's license, as follows:

"7-1-707.

(a) The department may suspend or revoke any license or registration issued pursuant to this article if:

(1) It shall find that the licensee or registrant has:

(A) Committed any fraud, engaged in any dishonest activities, or made any misrepresentation;

(B) Violated any provisions of the banking law or any regulation issued pursuant thereto or has violated any other law in the course of its, his, or her dealings as a licensed or registered casher of checks;

(C) Made a false statement in the application for such license or registration or failed to give a true reply to a question in such application;

(D) Demonstrated his, her, or its incompetency or untrustworthiness to act as a licensed or registered casher of checks;

(E) Purposely withheld, deleted, destroyed, or altered information requested by an examiner of the department or made false statements or material misrepresentations to the department; or

(F) Charged check-cashing fees, exclusive of direct costs of verification, in unconscionable amounts which do not adequately reflect:

(i) The level of risk associated with the cashing of checks of a particular class using ordinary prudence and commercially reasonable standards of identification and acceptance;

(ii) The cost of funds necessary to operate a check-cashing business; and

(iii) The extraordinary costs for security safeguards associated with the business location of the licensee or registrant; or

(2) It shall find that any ground or grounds exist which would require or warrant the refusal of an application for the issuance of the license if such an application were then before it.

(b) Notice of the department's intention to enter an order denying an application for a license or registration under this article or of an order suspending or revoking a license or registration under this article shall be given to the applicant, licensee, or registrant, in writing, sent by registered or certified mail or statutory overnight delivery addressed to the principal place of business of such applicant, licensee, or registrant. Within 20 days of the date of the notice of intention to enter an order of denial, suspension, or revocation under this article, the applicant, licensee, or registrant may request in writing a hearing to contest the order. If a hearing is not requested in writing within 20 days of the date of such notice of intention, the department shall enter a final order regarding the denial, suspension, or revocation. Any final order of the department denying, suspending, or revoking a license or registration shall state the grounds upon which it is based and shall be effective on the date of issuance. A copy thereof shall be forwarded promptly by registered or certified mail or statutory overnight delivery addressed to the principal place of business of such applicant, licensee, or registrant. If a person refuses to accept service of the notice or order

by registered or certified mail or statutory overnight delivery, the notice or order shall be served by the commissioner or the commissioner's authorized representative under any other method of lawful service; and the person shall be personally liable to the commissioner for a sum equal to the actual costs incurred to serve the notice or order. This liability shall be paid upon notice and demand by the commissioner or the commissioner's representative and shall be assessed and collected in the same manner as other fees or fines administered by the commissioner.

(c) A decision of the department denying a license or registration, original or renewal, shall be conclusive, except that it may be subject to judicial review under Code Section 7-1-90. A decision of the department suspending or revoking a license or registration shall be subject to judicial review in the same manner as a decision of the department to take possession of the assets and business of a bank under Code Section 7-1-155.

(d) The provisions of this Code section shall not apply when a license is denied or suspended as provided in Code Section 7-1-707.1.

(e)(1) Whenever it shall appear to the department that any person has violated any law of this state or any order or regulation of the department under this article, the department may issue an initial written order requiring such person to cease and desist immediately from such unauthorized practices. Such cease and desist order shall be final 20 days after it is issued unless the person to whom it is issued makes a written request within such 20 day period for a hearing. The hearing shall be conducted in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' A cease and desist order to an unlicensed or unregistered person that orders such person to cease doing a check-cashing business without the appropriate license or registration shall be final 30 days from the date of issuance, and there shall be no opportunity for an administrative hearing. If the proper license or registration or evidence of exemption is obtained within the 30 day period, the order shall be rescinded by the department. Any cease and desist order sent to the person at both his or her personal and business addresses pursuant to this Code section that is returned to the department as 'refused' or 'unclaimed' shall be deemed as received and sufficiently served.

(2) Whenever a person shall fail to comply with the terms of an order of the department which has been properly issued under the circumstances, the department, upon notice of three days to such person, may, through the Attorney General, petition the principal court for an order directing such person to obey the order of the department within the period of time as shall be fixed by the court. Upon the filing of such petition, the court shall allow a motion to show cause why it should not be granted. Whenever, after a hearing upon the merits or after failure of such person to appear when ordered, it shall appear that the order of the department was properly issued, the court shall grant the petition of the department.

(3) Any person who violates the terms of any order issued pursuant to this Code section shall be liable for a civil penalty not to exceed $1,000.00. Each day the violation continues shall constitute a separate offense. In determining the amount of penalty, the

department shall take into account the appropriateness of the penalty relative to the size of the financial resources of such person, the good faith efforts of such person to comply with the order, the gravity of the violation, the history of previous violations by such person, and such other factors or circumstances as shall have contributed to the violation. The department may at its discretion compromise, modify, or refund any penalty which is subject to imposition or has been imposed pursuant to this Code section. Any person assessed as provided in this subsection shall have the right to request a hearing into the matter within ten days after notification of the assessment has been served upon the licensee or registrant involved; otherwise, such penalty shall be final except as to judicial review as provided in Code Section 7-1-90.

(4) Initial judicial review of the decision of the department entered pursuant to this Code section shall be available solely in the superior court of the county of domicile of the department.

(5) For purposes of this Code section, the term 'person' includes an individual, any entity required to be licensed or registered, licensees, registrants, or an officer, director, employee, agent, or other person participating in the conduct of the affairs of the person subject to the orders issued pursuant to this Code section.

(6) In addition to any other administrative penalties authorized by this article, the department may, by regulation, prescribe administrative fines for violations of this article and of any rules promulgated by the department pursuant to this article."

SECTION 32.

Said chapter is further amended in Code Section 7-1-709, relating to applicability of article, by striking subsection (c) in its entirety and by revising subsection (b) in its entirety as follows:

"(b) This article shall not apply to any individual, partnership, association, or corporation which cashes checks for which no fee is charged."

SECTION 33.

Said chapter is further amended in Code Section 7-1-1001, relating to exemption for certain persons and entities from obtaining a mortgage broker or mortgage lender license, by revising paragraph (13) as follows:

"(13) Any natural person who makes five or fewer mortgage loans in any one calendar year. A person other than a natural person who makes five or fewer mortgage loans in any one calendar year shall not be exempt from the licensing requirements of this article; or"

SECTION 34.

Said chapter is further amended in Code Section 7-1-1004, relating to investigation of applicant for mortgage broker license, by revising subsections (f) and (i) as follows:

"(f) Every licensee and applicant shall be authorized and required to obtain background checks on covered employees. Such background checks shall be handled by the Georgia Crime Information Center pursuant to Code Section 35-3-34 and the rules and regulations of the Georgia Crime Information Center. Licensees and applicants shall be responsible for any applicable fees charged by the center. A background check must be initiated for a person in the employ of a licensee or applicant within ten days of the date of initial hire and be completed with satisfactory results within the first 90 days of employment. This provision does not apply to directors, officers, partners, agents, or ultimate equitable owners of 10 percent or more or to persons who direct the company's affairs or establish policy, whose background must have been investigated through the department before taking office, beginning employment, or securing ownership. Upon receipt of information from the Georgia Crime Information Center that is incomplete or that indicates an employee has a criminal record in any state other than Georgia, the employer shall submit to the department two complete sets of fingerprints of such person, together with the applicable fees and any other required information. The department shall submit such fingerprints as provided in subsection (e) of this Code section."

"(i) The department may not issue a license to and may revoke a license from an applicant or licensee if such person employs any other person against whom a final cease and desist order has been issued within the preceding five years, if such order was based on a violation of Code Section 7-1-1013 or based on the conducting of a mortgage business without a required license, or whose license has been revoked within five years of the date such person was hired. Each applicant and licensee shall, before hiring an employee, examine the department's public records to determine that such employee is not subject to the type of cease and desist order described in this subsection."

SECTION 35.

Said chapter is further amended in Code Section 7-1-1006, relating to contents of a mortgage broker's license and posting requirements, by revising subsections (e) and (f) as follows:

"(e) Each licensee shall notify the department in writing of any change in the address of the principal place of business or of any additional location of business in Georgia, any change in registered agent or registered office, any change of executive officer, contact person for consumer complaints, or ultimate equitable owner of 10 percent or more of any corporation or other entity licensed under this article, or of any material change in the licensee's financial statement. Notice of changes must be received by the department no later than 30 business days after the change is effective.

(f) No licensee shall open a new additional office in Georgia without prior approval of the department. Applications for such additional office shall be made in writing on a form prescribed by the department and shall be accompanied by payment of a $350.00 nonrefundable application fee. The application shall be approved unless the department finds that the applicant has not conducted business under this article efficiently, fairly, in the public interest, and in accordance with law. The application shall be deemed approved

if notice to the contrary has not been mailed by the department to the applicant within 45 days of the date the application is received by the department."

SECTION 36.

Said chapter is further amended in Code Section 7-1-1008, relating to acquisition of 25 percent or more of the voting shares or of the ownership of any other entity licensed to conduct business under the mortgage lenders and mortgage brokers article, is revised in the introductory language of subsection (a) as follows:

"(a) Except as provided in this Code section, no person shall acquire directly or indirectly 10 percent or more of the voting shares of a corporation or 10 percent or more of the ownership of any other entity licensed to conduct business under this article unless it first:"

SECTION 37.

Said chapter is further amended in Code Section 7-1-1009, relating to maintenance of books, accounts, and records; and investigation and examination of licensees and registrants by the department, by revising subsection (a) and the introductory language of subsection (f) as follows:

"(a) Any person required to be licensed or registered under this article shall maintain at its offices or such other location as the department shall permit such books, accounts, and records as the department may reasonably require in order to determine whether such person is complying with the provisions of this article and rules and regulations adopted in furtherance thereof. Such books, accounts, and records shall be maintained separately and distinctly from any other personal or unrelated business matters in which the person is involved."

"(f) Examinations and investigations conducted under this article and information obtained by the department in the course of its duties under this article are confidential, except as provided in this subsection, pursuant to the provisions of Code Section 7-1-70. In addition to the exceptions set forth in subsection (b) of Code Section 7-1-70 and in paragraphs (3) and (4) of subsection (c) of this Code section, the department is authorized to share information obtained under this article with other state and federal regulatory agencies or law enforcement authorities. In the case of such sharing, the safeguards to confidentiality already in place within such agencies or authorities shall be deemed adequate. The commissioner or an examiner specifically designated may disclose such limited information as is necessary to conduct a civil or administrative investigation or proceeding. The department shall compile information on the number of written complaints received on all licensees. The department shall annually disclose to the public the number of such complaints together with the number of Georgia residential mortgage loans made during the same period. In preparing the disclosure, the department shall be authorized to rely upon the number of mortgage loans reported to it in the mortgage license renewal application. Information contained in the records of the department which is not

confidential and may be made available to the public either on the department's website or upon receipt by the department of a written request shall include:"

SECTION 38.

Said chapter is further amended in Code Section 7-1-1016, relating to regulations relative to advertising, by revising paragraphs (1) and (2) as follows:

"(1)(A) Advertisements for loans regulated under this article may not be false, misleading, or deceptive. No person whose activities are regulated under this article may advertise in any manner so as to indicate or imply that its interest rates or charges for loans are in any way 'recommended,' 'approved,' 'set,' or 'established' by the state or this article;

(B) An advertisement shall not include an individual's loan number, loan amount, or other publicly available information unless it is clearly and conspicuously stated in bold-faced type at the beginning of the advertisement that the person disseminating it is not authorized by, in sponsorship with, or otherwise affiliated with the individual's lender, which shall be identified by name. Such an advertisement shall also state that the loan information contained therein was not provided by the recipient's lender.

(2) All advertisements disseminated by a licensee or a registrant in this state by any means shall contain the name, license number, and an office address of such licensee or registrant, which shall conform to a name and address on record with the department; and"

SECTION 39.

Said chapter is further amended in Code Section 7-1-1017, relating to suspension or revocation of licenses of mortgage lenders or mortgage brokers, by revising paragraph (1) of subsection (a) and subsection (b) as follows:

"(a)(1) The department may suspend or revoke an original or renewal license, registration, or mortgage broker education approval on any ground on which it might refuse to issue an original license, registration, or approval or for a violation of any provision of this article or of Chapter 6A of this title or any rule or regulation issued under this article or under Chapter 6A of this title, including failure to provide fees on a timely basis, or for failure of the licensee or registrant to pay, within 30 days after it becomes final, a judgment recovered in any court within this state by a claimant or creditor in an action arising out of the licensee's or registrant's business in this state as a mortgage lender or mortgage broker or for violation of a final order previously issued by the department."

"(b) Notice of the department's intention to enter an order denying an application for a license or registration under this article or of an order suspending or revoking a license or registration under this article shall be given to the applicant, licensee, or registrant in writing, sent by registered or certified mail or statutory overnight delivery addressed to the principal place of business of such applicant, licensee, or registrant. Within 20 days of the

date of the notice of intention to enter an order of denial, suspension, or revocation under this article, the applicant, licensee, or registrant may request in writing a hearing to contest the order. If a hearing is not requested in writing within 20 days of the date of such notice of intention, the department shall enter a final order regarding the denial, suspension, or revocation. Any final order of the department denying, suspending, or revoking a license or registration shall state the grounds upon which it is based and shall be effective on the date of issuance. A copy thereof shall be forwarded promptly by registered or certified mail or statutory overnight delivery addressed to the principal place of business of such applicant, licensee, or registrant. If a person refuses to accept service of the notice or order by registered or certified mail or statutory overnight delivery, the notice or order shall be served by the commissioner or the commissioner's authorized representative under any other method of lawful service; and the person shall be personally liable to the commissioner for a sum equal to the actual costs incurred to serve the notice or order. This liability shall be paid upon notice and demand by the commissioner or the commissioner's representative and shall be assessed and collected in the same manner as other fees or fines administered by the commissioner."

SECTION 40.

Said chapter is further amended in Code Section 7-1-1018, relating to cease and desist orders against noncompliant mortgage lenders or mortgage brokers, by revising subsections (a) and (f) as follows:

"(a) Whenever it shall appear to the department that any person required to be licensed or registered or required to file a notification statement under this article or employed by a licensee or registrant pursuant to Code Section 7-1-1001 or who would be covered by the prohibitions in Code Section 7-1-1013 has violated any law of this state or any order or regulation of the department, the department may issue an initial written order requiring such person to cease and desist immediately from such unauthorized practices. Such cease and desist order shall be final 20 days after it is issued unless the person to whom it is issued makes a written request within such 20 day period for a hearing. The hearing shall be conducted in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' A cease and desist order to an unlicensed person that orders them to cease doing a mortgage business without the appropriate license shall be final 30 days from the date of issuance, and there shall be no opportunity for an administrative hearing. If the proper license or evidence of exemption or valid employment status during the time of the alleged offense is delivered to the department within the 30 day period, the order shall be rescinded by the department. If a cease and desist order is issued to a person who has been sent a notice of bond cancellation and if the bond is reinstated or replaced and such documentation is delivered to the department within the 30 day period following the date of issuance of the order, the order shall be rescinded. If the notice of reinstatement of the bond is not received within the 30 days, the license shall expire at the end of the 30 day period and the person shall be required to make a new application for license and pay the

applicable fees. In the case of an unlawful purchase of mortgage loans, such initial cease and desist order to a purchaser shall constitute the knowledge required under subsection (b) of Code Section 7-1-1002 for any subsequent violations. Any cease and desist order sent to the person at both his or her personal and business addresses pursuant to this Code section that is returned to the department as 'refused' or 'unclaimed' shall be deemed as received and sufficiently served."

"(f) For purposes of this Code section, the term 'person' also includes any officer, director, employee, agent, or other person participating in the conduct of the affairs of the person subject to the orders issued pursuant to this Code section."

SECTION 41.

This Act shall become effective on July 1, 2007.

SECTION 42.

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

Approved May 24, 2007.

MOTOR VEHICLES - TAG PURCHASES; REQUIRED IDENTIFICATION.

No. 257 (Senate Bill No. 38).

AN ACT

To amend Code Section 40-2-33 of the Official Code of Georgia Annotated, relating to the issuance of license plates, so as to require presentation of a valid Georgia driver's license or Georgia identification card to obtain a motor vehicle tag; to provide for exemptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 40-2-33 of the Official Code of Georgia Annotated, relating to the issuance of license plates, is amended by adding a new subsection as follows:

"(d) The initial issuance of any tag, on or after July 1, 2007, shall not be made unless the applicant presents at the time of application a valid Georgia driver's license or Georgia identification card. This subsection shall not apply to those applicants expressly exempted in Code Section 40-5-21."

SECTION 2.

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

Approved May 24, 2007.

LABOR – ONSITE DRUG TESTING; ORAL TESTING.

No. 258 (Senate Bill No. 96).

AN ACT

To amend Article 11 of Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to drug-free workplace programs, so as to provide for onsite testing; to provide for oral testing; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 11 of Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to drug-free workplace programs, is amended by revising Code Section 34-9-415, relating to types, procedures, reports, confirmation, and laboratory qualifications for tests, as follows:

"34-9-415.

(a) All testing conducted by an employer shall be in conformity with the standards and procedures established in this article and all applicable rules adopted by the State Board of Workers' Compensation pursuant to this article. However, an employer shall not have a legal duty under this article to request an employee or job applicant to undergo testing.

(b) An employer is required to conduct the following types of tests in order to qualify for the workers' compensation insurance premium discounts provided under Code Section 34-9-412 and Code Section 33-9-40.2:

(1) An employer must require job applicants to submit to a substance abuse test after extending an offer of employment. Testing at the employer worksite with on-site testing kits that satisfy testing criteria in this article shall be deemed suitable and acceptable postoffer testing. Limited testing of job applicants by an employer shall qualify under this paragraph if such testing is conducted on the basis of reasonable classifications of job positions;

(2) An employer must require an employee to submit to reasonable suspicion testing;

(3) An employer must require an employee to submit to a substance abuse test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical

examination that is part of the employer's established policy or that is scheduled routinely for all members of an employment classification or group;

(4) If the employee in the course of employment enters an Employee Assistance Program or a rehabilitation program as the result of a positive test, the employer must require the employee to submit to a substance abuse test as a follow-up to such program. However, if an employee voluntarily entered the program, follow-up testing is not required. If follow-up testing is conducted, the frequency of such testing shall be at least once a year for a two-year period after completion of the program and advance notice of the testing date shall not be given to the employee;

(5) If the employee has caused or contributed to an on the job injury which resulted in a loss of worktime, the employer must require the employee to submit to a substance abuse test; and

(6) Urinalysis conducted by laboratories, testing at the employer worksite with on-site testing kits, or use of oral testing that satisfies testing criteria in this article shall be deemed suitable and acceptable substance abuse testing.

(c) Nothing in this Code section shall prohibit a private employer from conducting random testing or other lawful testing of employees.

(d) All specimen collection and testing under this Code section shall be performed in accordance with the following procedures:

(1) A specimen shall be collected with due regard to the privacy of the individual providing the specimen and in a manner reasonably calculated to prevent substitution or contamination of the specimen;

(2) Specimen collection shall be documented, and the documentation procedures shall include:

(A) Labeling of specimen containers so as to reasonably preclude the likelihood of erroneous identification of test results; and

(B) An opportunity for the employee or job applicant to record any information he or she considers relevant to the test, including identification of currently or recently used prescription or nonprescription medication or other relevant medical information. The providing of information shall not preclude the administration of the test, but shall be taken into account in interpreting any positive confirmed results;

(3) Specimen collection, storage, and transportation to the testing site shall be performed in a manner which will reasonably preclude specimen contamination or adulteration;

(4) Each initial test conducted under this Code section shall be conducted by a laboratory as described in subsection (e) of this Code section or conducted using an on-site testing kit or oral testing that satisfies the testing criteria in this article. Each confirmation test conducted under this Code section, not including the taking or collecting of a specimen to be tested, shall be conducted by a laboratory as described in subsection (e) of this Code section;

(5) A specimen for a test may be taken or collected by any of the following persons:

(A) A physician, a physician's assistant, a registered professional nurse, a licensed practical nurse, a nurse practitioner, or a certified paramedic who is present at the scene of an accident for the purpose of rendering emergency medical service or treatment;

(B) A qualified person certified or employed by a laboratory certified by the National Institute on Drug Abuse, the College of American Pathologists, or the Georgia Department of Human Resources;

(C) A qualified person certified or employed by a collection company;

(D) For the purpose of a pre-job offer screening only, a person trained and qualified to conduct on-site testing; or

(E) For the purpose of a pre-job offer screening only, a person trained and qualified to conduct oral testing, if an oral test is used;

(6) Within five working days after receipt of a positive confirmed test result from the laboratory, an employer shall inform an employee or job applicant in writing of such positive test result, the consequences of such results, and the options available to the employee or job applicant;

(7) The employer shall provide to the employee or job applicant, upon request, a copy of the test results;

(8) An initial test having a positive result must be confirmed by a confirmation test conducted in a laboratory in accordance with the requirements of this article;

(9) An employer who performs drug testing or specimen collection shall use chain of custody procedures to ensure proper record keeping, handling, labeling, and identification of all specimens to be tested. This requirement shall apply to all specimens, including specimens collected using on-site testing kits;

(10) An employer shall pay the cost of all drug tests, initial and confirmation, which the employer requires of employees;

(11) An employee or job applicant shall pay the cost of any additional tests not required by the employer; and

(12) If testing is conducted based on reasonable suspicion, the employer shall promptly detail in writing the circumstances which formed the basis of the determination that reasonable suspicion existed to warrant the testing. A copy of this documentation shall be given to the employee upon request and the original documentation shall be kept confidential by the employer pursuant to Code Section 34-9-420 and retained by the employer for at least one year.

(e)(1) No laboratory may analyze initial or confirmation drug specimens unless:

(A) The laboratory is approved by the National Institute on Drug Abuse or the College of American Pathologists;

(B) The laboratory has written procedures to ensure the chain of custody; and

(C) The laboratory follows proper quality control procedures including, but not limited to:

(i) The use of internal quality controls including the use of samples of known concentrations which are used to check the performance and calibration of testing equipment and periodic use of blind samples for overall accuracy;

(ii) An internal review and certification process for drug test results conducted by a person qualified to perform that function in the testing laboratory;

(iii) Security measures implemented by the testing laboratory to preclude adulteration of specimens and drug test results; and

(iv) Other necessary and proper actions taken to ensure reliable and accurate drug test results.

(2) A laboratory shall disclose to the employer a written test result report within seven working days after receipt of the sample. All laboratory reports of a substance abuse test result shall, at a minimum, state:

(A) The name and address of the laboratory which performed the test and the positive identification of the person tested;

(B) Positive results on confirmation tests only, or negative results, as applicable;

(C) A list of the drugs for which the drug analyses were conducted; and

(D) The type of tests conducted for both initial and confirmation tests and the minimum cut-off levels of the tests.

No report shall disclose the presence or absence of any drug other than a specific drug and its metabolites listed pursuant to this article.

(3) Laboratories shall provide technical assistance to the employer, employee, or job applicant for the purpose of interpreting any positive confirmed test results which could have been caused by prescription or nonprescription medication taken by the employee or job applicant.

(f) If an initial drug test is negative, the employer may in its sole discretion seek a confirmation test. Only laboratories as described in subsection (e) of this Code section shall conduct confirmation drug tests.

(g) All positive initial tests, regardless of the testing methodology used, shall be confirmed using the gas chromatography/mass spectrometry (GC/MC) method or an equivalent or more accurate scientifically accepted methods approved by the National Institute on Drug Abuse as such technology becomes available in a cost-effective form."

SECTION 2.

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

Approved May 24, 2007.

ELECTIONS – FRAUD OFFENSES;
INCREASE PENALTIES.

No. 259 (Senate Bill No. 40).

AN ACT

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and primaries generally, so as to increase the penalties for certain election related offenses involving fraudulent acts; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and primaries generally, is amended by revising paragraph (1) of subsection (c) of Code Section 21-2-384, relating to mailing of absentee ballots, as follows:

"(c)(1) The oaths referred to in subsection (b) of this Code section shall be in substantially the following form:

I, the undersigned, do swear (or affirm) that I am a citizen of the United States and of the State of Georgia; that my residence address is _____ County, Georgia; that I possess the qualifications of an elector required by the laws of the State of Georgia; that I am entitled to vote in the precinct containing my residence in the primary or election in which this ballot is to be cast; that I am eligible to vote by absentee ballot; that I have not marked or mailed any other absentee ballot, nor will I mark or mail another absentee ballot for voting in such primary or election; nor shall I vote therein in person; and that I have read and understand the instructions accompanying this ballot; and that I have carefully complied with such instructions in completing this ballot. I understand that the offer or acceptance of money or any other object of value to vote for any particular candidate, list of candidates, issue, or list of issues included in this election constitutes an act of voter fraud and is a felony under Georgia law.

_____
Elector's Residence
Address

_____
Month and Day of
Elector's Birth

Signature or Mark of Elector

Oath of Person Assisting Elector (if any):

I, the undersigned, do swear (or affirm) that I assisted the above-named elector in marking such elector's absentee ballot as such elector personally communicated such elector's preference to me; and that such elector is entitled to receive assistance in voting under provisions of subsection (a) of Code Section 21-2-409.

This, the _____ day of _____ _____.

Signature of Person Assisting
Elector -- Relationship

Reason for assistance (Check appropriate square):

( ) Elector is unable to read the English language.

( ) Elector requires assistance due to physical disability.

The forms upon which such oaths are printed shall contain the following information:

Georgia law provides, in subsection (b) of Code Section 21-2-409, that no person shall assist more than ten electors in any primary, election, or runoff in which there is no federal candidate on the ballot.

Georgia law further provides that any person who knowingly falsifies information so as to vote illegally by absentee ballot or who illegally gives or receives assistance in voting, as specified in Code Section 21-2-568 or 21-2-573, shall be guilty of a felony."

SECTION 2.

Said chapter is further amended by revising subsection (b) of Code Section 21-2-385, relating to procedure for voting by absentee ballot, as follows:

"(b) A physically disabled or illiterate elector may receive assistance in preparing his or her ballot from one of the following: any elector who is qualified to vote in the same county or municipality as the disabled or illiterate elector; an attendant care provider or a person providing attendant care; or the mother, father, grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the disabled or illiterate elector. The person rendering assistance to the elector in preparing the ballot shall sign the oath printed on the same envelope as the oath to be signed by the elector. If the disabled or illiterate elector is sojourning outside his or her own county or municipality, a notary public of the jurisdiction may give such assistance and shall sign the oath printed on the same envelope as the oath to be signed by the elector. No person shall assist more than ten such electors in any primary, election, or runoff in which there is no federal candidate on the ballot. Any person who willfully violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed $100,000.00, or both, for each such violation."

SECTION 3.

Said chapter is further amended by revising Code Section 21-2-561, relating to false registration, as follows:

"21-2-561.

Any person who:

(1) Registers as an elector knowing that such elector does not possess the qualifications required by law;

(2) Registers as an elector under any other name than the elector's own name; or

(3) Knowingly gives false information when registering as an elector

shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed $100,000.00, or both."

SECTION 4.

Said chapter is further amended by revising subsection (a) of Code Section 21-2-562, relating to fraudulent entries, as follows:

"(a) Any person who willfully:

(1) Inserts or permits to be inserted any fictitious name, false figure, false statement, or other fraudulent entry on or in any registration card, electors list, voter's certificate, affidavit, tally paper, general or duplicate return sheet, statement, certificate, oath, voucher, account, ballot or ballot card, or other record or document authorized or required to be made, used, signed, returned, or preserved for any public purpose in connection with any primary or election;

(2) Alters materially or intentionally destroys any entry which has been lawfully made therein; or

(3) Takes or removes any book, affidavit, return, account, ballot or ballot card, or other document or record from the custody of any person having lawful charge thereof, in order to prevent the same from being used or inspected or copied as required or permitted by this chapter

shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed $100,000.00, or both."

SECTION 5.

Said chapter is further amended by revising Code Section 21-2-566, relating to interference with primaries and elections generally, as follows:

"21-2-566.

Any person who:

(1) Willfully prevents or attempts to prevent any poll officer from holding any primary or election under this chapter;

(2) Uses or threatens violence to any poll officer or interrupts or improperly interferes with the execution of his or her duty;

(3) Willfully blocks or attempts to block the avenue to the door of any polling place;

(4) Uses or threatens violence to any elector to prevent him or her from voting;

(5) Willfully prepares or presents to any poll officer a fraudulent voter's certificate not signed by the elector whose certificate it purports to be;

(6) Knowingly deposits fraudulent ballots in the ballot box;

(7) Knowingly registers fraudulent votes upon any voting machine; or

(8) Willfully tampers with any electors list, voter's certificate, numbered list of voters, ballot box, voting machine, direct recording electronic (DRE) equipment, or tabulating machine

shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed $100,000.00, or both."

SECTION 6.

Said chapter is further amended by revising Code Section 21-2-567, relating to intimidation of electors, as follows:

"21-2-567.

Any person who uses or threatens to use force and violence, or in any other manner intimidates any other person, to:

(1) Vote or refrain from voting at any primary or election, or to vote or refrain from voting for or against any particular candidate or question submitted to electors at such primary or election; or

(2) Place or refrain from placing his or her name upon a register of electors

shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed $100,000.00, or both."

SECTION 7.

Said chapter is further amended by revising Code Section 21-2-568, relating to influencing elector while assisting, as follows:

"21-2-568.

(a) Any person who:

(1) Goes into the voting compartment or voting machine booth while another is voting or marks the ballot or ballot card or registers the vote for another, except in strict accordance with this chapter;

(2) Interferes with any elector marking his or her ballot or ballot card or registering his or her vote;

(3) Attempts to induce any elector before depositing his or her ballot or ballot card to show how he or she marks or has marked his or her ballot or ballot card; or

(4) Discloses to anyone how another elector voted, except when required to do so in any legal proceeding

shall be guilty of a felony.

(b) Any person who, while giving lawful assistance to another, attempts to influence the vote of the elector he or she is assisting or marks a ballot or ballot card or registers a vote in any other way than that requested by the voter he or she is assisting shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed $100,000.00, or both."

SECTION 8.

Said chapter is further amended by revising Code Section 21-2-571, relating to voting by unqualified elector or giving false information, as follows:

"21-2-571.

Any person who votes or attempts to vote at any primary or election, knowing that such person does not possess all the qualifications of an elector at such primary or election, as required by law, or who votes or attempts to vote at any primary in violation of Code Section 21-2-223 or who knowingly gives false information to poll officers in an attempt to vote in any primary or election shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed $100,000.00, or both."

SECTION 9.

Said chapter is further amended by revising Code Section 21-2-572, relating to repeat voting in same primary or election, as follows:

"21-2-572.

Any person who votes in more than one precinct in the same primary or election or otherwise fraudulently votes more than once at the same primary or election shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed $100,000.00, or both."

SECTION 10.

Said chapter is further amended by revising Code Section 21-2-573, relating to absentee voting by unqualified elector, as follows:

"21-2-573.

Any person who votes or attempts to vote by absentee ballot at any primary or election under Article 10 of this chapter and who is not qualified to vote shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed $100,000.00, or both."

SECTION 11.

Said chapter is further amended by revising Code Section 21-2-587, relating to frauds by poll workers, as follows:

"21-2-587.

Any poll officer who willfully:

(1) Makes a false return of the votes cast at any primary or election;

(2) Deposits fraudulent ballots or ballot cards in the ballot box or certifies as correct a false return of ballots or ballot cards;

(3) Registers fraudulent votes upon any voting machine or certifies as correct a return of fraudulent votes cast upon any voting machine;

(4) Makes any false entries in the electors list;

(5) Destroys or alters any ballot, ballot card, voter's certificate, or electors list;

(6) Tampers with any voting machine, direct recording electronic (DRE) equipment, or tabulating computer or device;

(7) Prepares or files any false voter's certificate not prepared by or for an elector actually voting at such primary or election; or

(8) Fails to return to the officials prescribed by this chapter, following any primary or election, any keys of a voting machine, ballot box, general or duplicate return sheet, tally paper, oaths of poll officers, affidavits of electors and others, record of assisted voters, numbered list of voters, electors list, voter's certificate, spoiled and canceled ballots or ballot cards, ballots or ballot cards deposited, written, or affixed in or upon a voting machine, DRE memory cards, or any certificate or any other paper or record required to be returned under this chapter

shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed $100,000.00, or both."

SECTION 12.

Said chapter is further amended by revising Code Section 21-2-590, relating to poll officers permitting unregistered or unqualified persons to vote, as follows:

"21-2-590.

Any poll officer who:

(1) Permits any unregistered person to vote at any primary or election, knowing such person is unregistered;

(2) Permits any person registered as an elector to vote, knowing that such person is not qualified to vote, whether or not such person has been challenged;

(3) Refuses to permit any duly registered and qualified person to vote at any primary or election, with the knowledge that such person is entitled to vote; or

(4) Renders assistance to an elector in voting in violation of Code Section 21-2-409, or knowingly permits another person to render such assistance in violation of Code Section 21-2-409

shall be guilty of a felony."

SECTION 13.

Said chapter is further amended by revising Code Section 21-2-600, relating to punishment for felonies under chapter, as follows:

"21-2-600.

Except as otherwise provided, any person convicted of a felony under this chapter shall be punished by a fine not to exceed $10,000.00 or imprisonment of not less than one year nor more than ten years, or both, in the discretion of the trial court, or may be punished as for a misdemeanor in the discretion of the trial court."

SECTION 14.

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

Approved May 29, 2007.

CONSERVATION – SOIL SCIENTIST EVALUATIONS AND REPORTS.

No. 260 (Senate Bill No. 226).

AN ACT

To amend Article 1 of Chapter 2 of Title 12 of the Official Code of Georgia Annotated, relating to general provisions relative to the Department of Natural Resources, so as to provide that evaluations and reports of qualified soil scientists shall be accepted by the Department of Natural Resources for certain purposes; to define certain terms; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 2 of Title 12 of the Official Code of Georgia Annotated, relating to general provisions relative to the Department of Natural Resources, is amended by adding a new Code section to read as follows:

"12-2-10.

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

(1) 'Public practice of soil science' means any service or work, the adequate performance of which requires education in the physical, chemical, and biological sciences, as well as soil science; training and experience in the application of special knowledge of these sciences to the use and management of soils by accepted principles and methods; investigation, evaluation, and consultation in the use and management of soils; and in which the performance is related to the public welfare by safeguarding life, health, property, and the environment. The term includes, but is not limited to, investigating and evaluating the interaction between water, soil, nutrients, plants, and other living organisms that are used to prepare soil scientists' reports for subsurface ground absorption systems, including infiltration galleries; land application of residuals such as sludge, septage, and other wastes; spray irrigation of waste water; soil remediation at conventional rates; land application of agricultural products and processing residues; bioremediation and volatilization; soil erodibility and sedimentation; and identification of hydric soil and redoximorphic features.

(2) 'Soil science' means the science dealing with soils as an environmental resource. Soil science includes soil characterization, classification, and mapping; the physical, chemical, hydrologic, mineralogical, biological, and microbiological analysis of soil; and the assessment, analysis, modeling, testing, evaluation, and use of soil for the benefit of mankind. Soil science does not include design or creative works, the adequate performance of which requires extensive geological, engineering, land surveying, forestry, or landscape architecture education, training, and experience or requires registration as a geologist under Chapter 19 of Title 43, professional engineer or land surveyor under Chapter 15 of Title 43, or forester under Part 2 of Article 1 of Chapter 6 of this title or licensing as a landscape architect under Chapter 23 of Title 43.

(3) 'Soil scientist' means a person who engages in the public practice of soil science.

(b) Any person who:

(1) Holds at least a bachelor's degree in science from an accredited college or university with a major in soil science or a related field of science, which degree includes a minimum of 30 semester hours or equivalent quarter credit hours in agricultural, biological, chemical, physical, or earth sciences, with a minimum of 15 semester credit hours or equivalent quarter credit hours in soil science courses; and

(2) Has at least four years of work experience as a soil scientist under the supervision of a person who meets the qualifications of paragraph (1) of this subsection and who provides satisfactory evidence of such qualifications to the department

shall be authorized and qualified, for purposes of assisting persons in meeting the requirements of this title, to engage in the public practice of soil science on behalf of such persons and submit soil science evaluations and reports to the department when such are required for purposes of satisfying requirements of this title, and such reports by a soil scientist shall be accepted by the department for such purposes.

(c) This Code section shall not be construed to prevent or affect:

(1) The practice of registered professional engineers from lawfully practicing soil mechanics, foundation engineering, and other professional engineering as provided in Chapter 15 of Title 43; or

(2) Persons registered as professional engineers or professional geologists from practicing soil science within their areas of engineering or geologic competency.

(d) It shall be unlawful for a soil scientist to engage in the design of engineering works and systems unless the soil scientist is also a registered professional engineer under Chapter 15 of Title 43."

SECTION 2.

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

Approved May 29, 2007.

ELECTIONS – CERTIFICATION OF OFFICIALS; PRESIDENTIAL PREFERENCE PRIMARY; BALLOT NAMES; TABULATION; ABSENTEE BALLOTS.

No. 261 (Senate Bill No. 194).

AN ACT

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and primaries generally, so as to provide that certain election officials shall be certified by a certain date; to change the date of the presidential preference primary in Georgia; to change the date by which the parties must submit names to the Secretary of State for inclusion on the ballot and the date on which the Secretary of State shall publish such list of names; to provide in certain circumstances that the county election superintendent may begin the tabulation of absentee ballots prior to the close of the polls on the day of a primary, election, or runoff; to provide procedures for such tabulation; to provide that absentee ballots that are enclosed in an outer envelope but not contained in an inner envelope shall be counted; to provide that a person may cancel his or her absentee ballot under certain circumstances; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and primaries generally, is amended by revising subsection (a) of Code Section 21-2-101, relating to certification program for election superintendents or election board designee, as follows:

"(a) All election superintendents or, in the case of a board of elections or a board of elections and registration, the designee of such board charged with the daily operations of such board shall become certified by completing a certification program approved by the Secretary of State by no later than December 31 of the year in which they are appointed. Such program may include instruction on, and may require the superintendent to demonstrate proficiency in, the operation of the state's direct recording electronic voting equipment and in state and federal law and procedures related to elections. The local government employing the superintendent or designee shall cover the costs, if any, incurred by such superintendent or designee's participation in the certification program. Such certification programs shall be offered by the Secretary of State on multiple occasions before December 31 of the year in which such superintendents or designees are appointed and shall not exceed 64 hours of classroom, online, and practical instruction as authorized and approved by the Secretary of State."

SECTION 2.

Said chapter is further amended by revising Code Section 21-2-191, relating to parties entitled to hold primaries and the dates for such primaries, as follows:

"21-2-191.

As provided in this article, a presidential preference primary shall be held in 2008 and every four years thereafter for each political party or body which has cast for its candidates for President and Vice President in the last presidential election more than 20 percent of the total vote cast for President and Vice President in the state, so that the electors may express their preference for one person to be the candidate for nomination by such person's party or body for the office of President of the United States; provided, however, that no elector shall vote in the primary of more than one political party or body in the same presidential preference primary. Such primary shall be held on February 5, 2008, and on the first Tuesday in February every four years thereafter. A state political party or body may by rule choose to elect any portion of its delegates to that party's or body's presidential nominating convention in the primary; and, if a state political party or body chooses to elect any portion of its delegates, such state political party or body shall establish the qualifying period for those candidates for delegate and delegate alternate positions which are to be elected in the primary and for any party officials to be elected in the primary and shall also establish the date on which state and county party executive committees shall certify to the Secretary of State or the superintendent, as the case may be, the names of any such candidates who are to be elected in the primary; provided, however, that such dates shall not be later than November 1 of the year preceding the year in which the presidential preference primary is to be held."

SECTION 3.

Said chapter is further amended by revising Code Section 21-2-193, relating to list of names of candidates to appear on ballot, as follows:

"21-2-193.

Not later than November 1 of the year preceding the year in which a presidential preference primary is to be held, the state executive committee of each party which is to conduct a presidential preference primary shall submit to the Secretary of State a list of the names of the candidates of such party to appear on the presidential preference primary ballot. Such lists shall be published by the Secretary of State in a newspaper of general circulation in the state during the first week of December in the year immediately preceding the year in which the presidential preference primary is to be held."

SECTION 4.

Said chapter is further amended by revising Code Section 21-2-386, relating to safekeeping, certification, and validation of absentee ballots, as follows:

"21-2-386.

(a)(1)(A) The board of registrars or absentee ballot clerk shall keep safely and unopened all official absentee ballots received from absentee electors prior to the closing of the polls on the day of the primary or election except as otherwise provided in this subsection.

(B) Upon receipt of each ballot, a registrar or clerk shall write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk shall then compare the identifying information on the oath with the information on file in his or her office, shall compare the signature or mark on the oath with the signature or mark on the absentee elector's voter registration card and application for absentee ballot or a facsimile of said signature or mark taken from said card or application, and shall, if the information and signature appear to be valid and other identifying information appears to be correct, so certify by signing or initialing his or her name below the voter's oath. Each elector's name so certified shall be listed by the registrar or clerk on the numbered list of absentee voters prepared for his or her precinct.

(C) If the elector has failed to sign the oath, or if the signature does not appear to be valid, or if the elector has failed to furnish required information or information so furnished does not conform with that on file in the registrar's or clerk's office, or if the elector is otherwise found disqualified to vote, the registrar or clerk shall write across the face of the envelope 'Rejected,' giving the reason therefor. The board of registrars or absentee ballot clerk shall promptly notify the elector of such rejection, a copy of which notification shall be retained in the files of the board of registrars or absentee ballot clerk for at least one year.

(D) An elector who registered to vote by mail, but did not comply with subsection (c) of Code Section 21-2-220, and who votes for the first time in this state by absentee ballot shall include with his or her application for an absentee ballot or in the outer oath

envelope of his or her absentee ballot either one of the forms of identification listed in subsection (a) of Code Section 21-2-417 or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of such elector. If such elector does not provide any of the forms of identification listed in this subparagraph with his or her application for an absentee ballot or with the absentee ballot, such absentee ballot shall be deemed to be a provisional ballot and such ballot shall only be counted if the registrars are able to verify current and valid identification of the elector as provided in this subparagraph within the time period for verifying provisional ballots pursuant to Code Section 21-2-419.

(E) Three copies of the numbered list of voters shall also be prepared for such rejected absentee electors, giving the name of the elector and the reason for the rejection in each case. Three copies of the numbered list of certified absentee voters and three copies of the numbered list of rejected absentee voters for each precinct shall be turned over to the poll manager in charge of counting the absentee ballots and shall be distributed as required by law for numbered lists of voters.

(F) All absentee ballots returned to the board or absentee ballot clerk after the closing of the polls on the day of the primary or election shall be safely kept unopened by the board or absentee ballot clerk and then transferred to the appropriate clerk for storage for the period of time required for the preservation of ballots used at the primary or election and shall then, without being opened, be destroyed in like manner as the used ballots of the primary or election. The board of registrars or absentee ballot clerk shall promptly notify the elector by first-class mail that the elector's ballot was returned too late to be counted and that the elector will not receive credit for voting in the primary or election. All such late absentee ballots shall be delivered to the appropriate clerk and stored as provided in Code Section 21-2-390.

(G) Notwithstanding any provision of this chapter to the contrary, until the United States Department of Defense notifies the Secretary of State that the Department of Defense has implemented a system of expedited absentee voting for those electors covered by this subparagraph, absentee ballots cast in a primary, election, or runoff by eligible absentee electors who reside outside the county or municipality in which the primary, election, or runoff is held and are members of the armed forces of the United States, members of the merchant marine of the United States, spouses or dependents of members of the armed forces or merchant marine residing with or accompanying such members, or overseas citizens that are postmarked by the date of such primary, election, or runoff and are received within the three-day period following such primary, election, or runoff, if proper in all other respects, shall be valid ballots and shall be counted and included in the certified election results.

(2) After the opening of the polls on the day of the primary, election, or runoff, the registrars or absentee ballot clerks shall be authorized to open the outer envelope on which is printed the oath of the elector in such a manner as not to destroy the oath printed

thereon; provided, however, that the registrars or absentee ballot clerk shall not be authorized to remove the contents of such outer envelope or to open the inner envelope marked 'Official Absentee Ballot,' except as otherwise provided in this Code section. At least three persons who are registrars, deputy registrars, poll workers, or absentee ballot clerks must be present before commencing; and three persons who are registrars, deputy registrars, or absentee ballots clerks shall be present at all times while the outer envelopes are being opened. After opening the outer envelopes, the ballots shall be safely and securely stored until the time for tabulating such ballots.

(3) A county election superintendent may, in his or her discretion, after 7:00 A.M. on the day of the primary, election, or runoff open the inner envelopes in accordance with the procedures prescribed in this subsection and begin tabulating the absentee ballots. If the county election superintendent chooses to open the inner envelopes and begin tabulating such ballots prior to the close of the polls on the day of the primary, election, or runoff, the superintendent shall notify in writing, at least seven days prior to the primary, election, or runoff, the county executive committee or, if there is no organized county executive committee, the state executive committee of each political party and political body having candidates whose names appear on the ballot for such election in such county and each independent and nonpartisan candidate whose name appears on the ballot for such primary, election, or runoff in such county of the superintendent's intent to begin the absentee ballot tabulation prior to the close of the polls and their right to appoint monitors to observe the tabulation. Such committee shall have the right to designate two persons and each independent and nonpartisan candidate whose name appears on the ballot for such election in such county shall have the right to designate one person to act as monitors for such process. In the event that the only issue to be voted upon in an election is a referendum question, the chief judge of the superior court of the county shall appoint two electors of the county to monitor such process.

(4) The county election superintendent shall publish a written notice in the superintendent's office of the superintendent's intent to begin the absentee ballot tabulation prior to the close of the polls and publish such notice at least one week prior to the primary, election, or runoff in the legal organ of the county.

(5) The process for opening the inner envelopes of and tabulating absentee ballots on the day of a primary, election, or runoff as provided in this subsection shall be a confidential process to maintain the secrecy of all ballots and to protect the disclosure of any balloting information before 7:00 P.M. on election day. No absentee ballots shall be tabulated before 7:00 A.M. on the day of a primary, election, or runoff.

(6) All persons conducting the tabulation of absentee ballots during the day of a primary, election, or runoff, including the vote review panel required by Code Section 21-2-483, and all monitors and observers shall be sequestered until the time for the closing of the polls. All such persons shall have no contact with the news media; shall have no contact with other persons not involved in monitoring, observing, or conducting the tabulation; shall not use any type of communication device including radios, telephones, and cellular

telephones; shall not utilize computers for the purpose of electronic mail, instant messaging, or other forms of communication; and shall not communicate any information concerning the tabulation until the time for the closing of the polls; provided, however, that supervisory and technical assistance personnel shall be permitted to enter and leave the area in which the tabulation is being conducted but shall not communicate any information concerning the tabulation to anyone other than the county election superintendent; the staff of the superintendent; those persons conducting, observing, or monitoring the tabulation; and those persons whose technical assistance is needed for the tabulation process to operate.

(7) The absentee ballots shall be tabulated in accordance with the procedures of this chapter for the tabulation of absentee ballots. As such ballots are tabulated, they shall be placed into locked ballot boxes and may be transferred to locked ballot bags, if needed, for security. The persons conducting the tabulation of the absentee ballots shall not cause the tabulating equipment to produce any count, partial or otherwise, of the absentee votes cast until the time for the closing of the polls.

(b) As soon as practicable after 7:00 A.M. on the day of the primary, election, or runoff, in precincts other than those in which optical scanning tabulators are used, a registrar or absentee ballot clerk shall deliver the official absentee ballot of each certified absentee elector, each rejected absentee ballot, applications for such ballots, and copies of the numbered lists of certified and rejected absentee electors to the manager in charge of the absentee ballot precinct of the county or municipality, which shall be located in the precincts containing the county courthouse or polling place designated by the municipal superintendent. In those precincts in which optical scanning tabulators are used, such absentee ballots shall be taken to the tabulation center or other place designated by the superintendent, and the official receiving such absentee ballots shall issue his or her receipt therefor. Except as otherwise provided in this Code section, in no event shall the counting of the ballots begin before the polls close.

(c) Except as otherwise provided in this Code section, after the close of the polls on the day of the primary, election, or runoff, a manager shall then open the outer envelope in such manner as not to destroy the oath printed thereon and shall deposit the inner envelope marked 'Official Absentee Ballot' in a ballot box reserved for absentee ballots. In the event that an outer envelope is found to contain an absentee ballot that is not in an inner envelope, the ballot shall be sealed in an inner envelope, initialed and dated by the person sealing the inner envelope, and deposited in the ballot box and counted in the same manner as other absentee ballots, provided that such ballot is otherwise proper. Such manager with two assistant managers, appointed by the superintendent, with such clerks as the manager deems necessary shall count the absentee ballots following the procedures prescribed by this chapter for other ballots, insofar as practicable, and prepare an election return for the county or municipality showing the results of the absentee ballots cast in such county or municipality.

(d) Any other provision of law to the contrary notwithstanding, if at any primary, general, or special election in any county any question is to be voted on involving any political subdivision which includes less than the entire county, all absentee ballots shall be separated by precinct for counting purposes; and separate returns shall be certified for each precinct in which absentee ballots were cast.

(e) If an absentee elector's right to vote has been challenged for cause, a poll officer shall open the envelopes and write 'Challenged,' the elector's name, and the alleged cause of challenge on the back of the ballot, without disclosing the markings on the face thereof, and shall deposit the ballot in the box; and it shall be counted as other challenged ballots are counted. Where direct recording electronic voting systems are used for absentee balloting and a challenge to an elector's right to vote is made prior to the time that the elector votes, the elector shall vote on a paper or optical scanning ballot and such ballot shall be handled as provided in this subsection. The board of registrars or absentee ballot clerk shall promptly notify the elector of such challenge.

(f) It shall be unlawful at any time prior to the close of the polls for any person to disclose or for any person to receive any information regarding the results of the tabulation of absentee ballots except as expressly provided by law."

SECTION 5.

Said chapter is further amended by revising Code Section 21-2-388, relating to cancellation of absentee ballots of electors who are present in the election precinct during primaries and elections, as follows:

"21-2-388.

When an absentee ballot which has been voted shall be returned to and received by the board of registrars, it shall be deemed to have been voted then and there; and no other ballot shall be issued to the same elector. If an elector has requested to vote by absentee ballot and has not received such absentee ballot, has such ballot in his or her possession, or has returned such ballot but the registrars have not received such ballot, such elector may have the absentee ballot canceled and vote in person on the day of the primary, election, or runoff in one of the following ways:

(1) If the elector is in possession of the ballot, by surrendering the absentee ballot to the poll manager of the precinct in which the elector's name appears on the electors list and then being permitted to vote the regular ballot. The poll manager shall mark 'Canceled' and the date and time across the face of the absentee ballot and shall initial same. The poll manager shall also make appropriate notations beside the name of the elector on the electors list. All such canceled absentee ballots shall be returned with other ballots to the superintendent; or

(2) If the elector has not received the ballot or if the elector has returned the ballot but the registrars have not received the ballot, by appearing in person before the registrars or the absentee ballot clerk and requesting in writing that the envelope containing the elector's absentee ballot be marked 'Canceled.' After having satisfied themselves as to

the identity of such elector, the registrars or the absentee ballot clerk shall grant the request and shall notify the managers of the elector's precinct as to such action so as to permit the elector to vote in person in that precinct. If the absentee ballot is in the mail or its exact location is unknown, the registrar or the absentee ballot clerk shall write 'Canceled' beside the elector's name on the master list of absentee voters and shall cancel the ballot itself as soon as it is received. Canceled absentee ballots shall be disposed of in the same manner as provided in subsection (a) of Code Section 21-2-386 for absentee ballots returned too late to be cast."

SECTION 6.

This Act shall become effective on July 1, 2007.

SECTION 7.

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

Approved May 29, 2007.

PROFESSIONS – OPTOMETRISTS; PHARMACEUTICAL AGENTS.

No. 262 (Senate Bill No. 17).

AN ACT

To amend Chapter 30 of Title 43 of the Official Code of Georgia Annotated, relating to optometrists, so as to provide for additional pharmaceutical agents which may be used by a doctor of optometry for treatment purposes; to provide for a standard of care; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 30 of Title 43 of the Official Code of Georgia Annotated, relating to optometrists, is amended by revising subparagraph (D) of paragraph (2) of Code Section 43-30-1, relating to definitions, as follows:

"(D) Pharmaceutical agents which are used by a doctor of optometry for treatment purposes and administered orally may only be:

(i)(I) Nonnarcotic oral analgesics and Schedule III or Schedule IV controlled substances which are oral analgesics;

(II) Used for ocular pain; and

(III) Used for no more than 72 hours without consultation with the patient's physician; or

(ii) Oral and topical antibiotics, antivirals, topical steroids, antifungals, antihistamines, or antiglaucoma agents related to the diagnosis or treatment of diseases and conditions of the eye and adnexa oculi except Schedule I or Schedule II controlled substances. Doctors of optometry using such oral and topical pharmaceutical agents shall be held to the same standard of care imposed by Code Section 51-1-27 as would be applied to a physician licensed under Chapter 34 of this title performing similar acts; provided, however, that a doctor of optometry shall not be authorized to treat systemic diseases."

SECTION 2.

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

Approved May 29, 2007.

PROFESSIONS – FUNERAL DIRECTORS AND ESTABLISHMENTS; LICENSING; CASKETS.

No. 263 (House Bill No. 90).

AN ACT

To amend Article 1 of Chapter 18 of Title 43 of the Official Code of Georgia Annotated, relating to funeral directors and establishments, embalmers, and crematories, so as to provide for certain requirements and options for licensing and license holders; to provide additional options for reciprocity; to provide for certain procedures; to provide that a funeral establishment operated by a person and others licensed by the State Board of Funeral Services shall have an adequate stock of funeral caskets on the premises; to provide that the display room may contain actual caskets or may contain models, mock-ups, or sections of caskets or similar items if such caskets are readily available and in stock for purchase at the establishment or can be delivered within 24 hours; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 18 of Title 43 of the Official Code of Georgia Annotated, relating to funeral directors and establishments, embalmers, and crematories, is amended by revising Code Section 43-18-42, relating to reciprocity for licensed embalmers and funeral directors from other states, as follows:

"43-18-42.

(a) The board may, in its discretion and in accordance with regulations adopted by the board, grant to any person licensed in another state, territory, country, or District of Columbia full privileges to engage in equivalent practice authorized by this article without taking a national examination if:

(1)(A) On or after January 1, 1991, such person successfully passes a written examination approved by the board which tests knowledge of the law of this state relating to funeral directors; and

(B) Such person satisfied in another state, territory, country, or District of Columbia the requirements for licensure which are:

(i) In effect in Georgia on the date of application; or

(ii) Substantially equal to the requirements for a similar license in Georgia; or

(2) Such person seeking a license pursuant to this Code section has engaged in the active practice of funeral service as a licensed funeral director and embalmer for three years immediately preceding his or her application for a license in Georgia.

(b) Nothing in this Code section shall be construed to prevent an applicant denied pursuant to this Code section from taking the examination for licensure pursuant to this article if that applicant otherwise meets the qualifications set out in Code Section 43-18-41."

SECTION 2.

Said article is further amended by revising paragraph (3) of subsection (b) of Code Section 43-18-70, relating to practice at licensed funeral establishment or crematory, facilities, and living quarters, as follows:

"(3) A display room containing actual caskets or models, mock-ups, or sections of caskets or similar items if all such caskets are available and in stock for purchase at the establishment or can be delivered within 24 hours. Each funeral establishment shall maintain on the premises at each of its locations an adequate stock of funeral caskets which shall not be less than eight and which shall meet such other criteria as necessary to protect the public;"

SECTION 3.

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

Approved May 29, 2007.

APPEAL – DOMESTIC RELATIONS – CHILD CUSTODY PROCEEDINGS; EXTENSIVE REVISION.

No. 264 (House Bill No. 369).

AN ACT

To provide for legislative findings; to amend Article 2 of Chapter 6 of Title 5, Code Section 9-11-133, and Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to appellate practice, forms meeting requirements for civil case filing and disposition, and child custody proceedings, respectively, so as to provide for changes in child custody proceedings; to provide for direct appeals in certain domestic relations cases; to change certain provisions relating to cases requiring application for appeal; to add information to filing and dispositional forms in domestic relations cases; to provide for a parenting plan in child custody cases and the procedure therefor; to provide factors in determining the best interests of the child; to provide for written findings of fact in child custody proceedings; to provide for attorney's fees and expenses of litigation in child custody proceedings; to provide for binding arbitration; to amend Code Section 19-7-22 of the Official Code of Georgia Annotated, relating to petition for legitimation of child, so as to correct a cross-reference; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

The General Assembly of Georgia declares that it is the policy of this state to assure that minor children have frequent and continuing contact with parents who have shown the ability to act in the best interests of their children and to encourage parents to share in the rights and responsibilities of rearing their children after the parents have separated or dissolved their marriage or relationship.

SECTION 2.

Article 2 of Chapter 6 of Title 5 of the Official Code of Georgia Annotated, relating to appellate practice, is amended by revising subsection (a) of Code Section 5-6-34, relating to judgments and rulings deemed directly appealable, as follows:

"(a) Appeals may be taken to the Supreme Court and the Court of Appeals from the following judgments and rulings of the superior courts, the constitutional city courts, and such other courts or tribunals from which appeals are authorized by the Constitution and laws of this state:

(1) All final judgments, that is to say, where the case is no longer pending in the court below, except as provided in Code Section 5-6-35;
(2) All judgments involving applications for discharge in bail trover and contempt cases;
(3) All judgments or orders directing that an accounting be had;
(4) All judgments or orders granting or refusing applications for receivers or for interlocutory or final injunctions;
(5) All judgments or orders granting or refusing applications for attachment against fraudulent debtors;
(6) Any ruling on a motion which would be dispositive if granted with respect to a defense that the action is barred by Code Section 16-11-184;
(7) All judgments or orders granting or refusing to grant mandamus or any other extraordinary remedy, except with respect to temporary restraining orders;
(8) All judgments or orders refusing applications for dissolution of corporations created by the superior courts;
(9) All judgments or orders sustaining motions to dismiss a caveat to the probate of a will;
(10) All judgments or orders entered pursuant to subsection (c) of Code Section 17-10-6.2; and
(11) All judgments or orders in child custody cases including, but not limited to, awarding or refusing to change child custody or holding or declining to hold persons in contempt of such child custody judgment or orders."

SECTION 3.

Said article is further amended by revising subsection (a) of Code Section 5-6-35, relating to cases requiring application for appeal, as follows:

"(a) Appeals in the following cases shall be taken as provided in this Code section:
(1) Appeals from decisions of the superior courts reviewing decisions of the State Board of Workers' Compensation, the State Board of Education, auditors, state and local administrative agencies, and lower courts by certiorari or de novo proceedings; provided, however, that this provision shall not apply to decisions of the Public Service Commission and probate courts and to cases involving ad valorem taxes and condemnations;
(2) Appeals from judgments or orders in divorce, alimony, and other domestic relations cases including, but not limited to, granting or refusing a divorce or temporary or permanent alimony or holding or declining to hold persons in contempt of such alimony judgment or orders;
(3) Appeals from cases involving distress or dispossessory warrants in which the only issue to be resolved is the amount of rent due and such amount is $2,500.00 or less;
(4) Appeals from cases involving garnishment or attachment, except as provided in paragraph (5) of subsection (a) of Code Section 5-6-34;
(5) Appeals from orders revoking probation;

(6) Appeals in all actions for damages in which the judgment is $10,000.00 or less;
(7) Appeals, when separate from an original appeal, from the denial of an extraordinary motion for new trial;
(8) Appeals from orders under subsection (d) of Code Section 9-11-60 denying a motion to set aside a judgment or under subsection (e) of Code Section 9-11-60 denying relief upon a complaint in equity to set aside a judgment;
(9) Appeals from orders granting or denying temporary restraining orders;
(10) Appeals from awards of attorney's fees or expenses of litigation under Code Section 9-15-14;
(11) Appeals from decisions of the state courts reviewing decisions of the magistrate courts by de novo proceedings so long as the subject matter is not otherwise subject to a right of direct appeal; and
(12) Appeals from orders terminating parental rights."

SECTION 4.

Code Section 9-11-133 of the Official Code of Georgia Annotated, relating to forms meeting requirements for civil case filing and disposition, is amended by revising subsections (c) and (e) as follows:

"(c) *Domestic Relations Case Filing Information Form.*

DOMESTIC RELATIONS CASE FILING
INFORMATION FORM

Court
___ Superior County _____ Date filed _____
mm-dd-yyyy

Docket no. _____

Plaintiff(s) (last, suffix, first, middle initial, maiden)	Defendant(s) (last, suffix, first, middle initial, maiden)
1. _____	1. _____
2. _____	2. _____

Plaintiff/Petitioner's attorney
_____ ___ Pro Se

Bar #
_____

CHECK CASE TYPE:
(one or more)

__ Divorce (includes annulment)
Contested? ___ Yes ___ No
Child Custody issue? ___ Yes ___ No
Child Support issue? ___ Yes ___ No

__ Separate Maintenance

__ Adoption

__ Paternity (includes legitimation)

__ Interstate Support Enforcement Action

__ Domestication of Foreign Custody Decree

__ Family Violence Act Petition

CONTEMPT

__ Contempt - Custody, Visitation, or Parenting Time

__ Contempt - Child Support and Alimony

__ Contempt - Child Support

__ Contempt - Alimony

__ Other Domestic Contempt

FAMILY VIOLENCE

Additional information - Ex Parte Relief

_____

Did the initial pleading include a request for relief:

1. From alleged family violence? ___ Yes ___ No
2. Was ex parte relief requested? ___ Yes ___ No
3. Was ex parte relief granted? ___ Yes ___ No

MODIFICATION	OTHER
__ Modification - Custody, Visitation, or Parenting Time	Have the parties agreed to binding arbitration? ___ Yes ___No
Does the modification include a parent selection by a child who is at least 14 years of age? ___ Yes ___ No	Have the parties reached a custodial agreement? ___ Yes ___No
__ Modification - Child Support and Alimony	If yes, is custody:
__ Modification - Child Support	___ Joint custody
__ Modification - Alimony	___ Joint legal custody
	___ Joint physical custody
	___ Sole custody to: _____
	Financial affidavit submitted? ___ Yes ___No
	Child support forms submitted? ___ Yes ___No"

"(e) *Domestic Relations Case Final Disposition Information form.*

DOMESTIC RELATIONS CASE FINAL
DISPOSITION INFORMATION FORM

Court
___ Superior County _____ Date _____
disposed mm-dd-yyyy

Docket no. _____

Reporting party _____ _____
(Name) (Title)

Name of plaintiff/petitioner(s)

_____

Plaintiff/petitioner's attorney

_____ ___ Pro Se

Bar #

_____

Name of defendant/respondent(s)

_____

Defendant/respondent's attorney

_____ ___ Pro Se

Bar #

_____

TYPE OF DISPOSITION

1. Dismissed Without Final Order
   A. __ Voluntary (by parties)
   B. __ Involuntary (by court)
2. __ Pretrial Settlement
3. __ Judgment on the Pleadings
4. __ Summary Judgment
5. __ Trial
   A. Bench Trial

RELIEF GRANTED (Check all that apply)

1. __ Ex Parte Relief
2. __ Temporary Relief
3. __ Final Relief
   A. __ Divorce/Annulment/ Separate Maintenance
   B. __ Child Custody
      (i) Parenting plan included? ___ Yes ___ No
      (ii) Custodial arrangement:
      ___ Joint custody
      ___ Joint legal custody
      ___ Joint physical custody
      ___ Sole custody
      to:_____
      (iii) Fourteen year old

B. Jury Trial

1. __ Dismissal after jury selected
2. __ Settlement during trial
3. __ Judgment on Verdict
4. __ Directed Verdict or JNOV

ADR

1. Was mediation utilized?
___ Yes ___ No
2. If yes, was it (check if applicable):
__ court annexed?
__ court mandated?
3. Was there an agreement to binding arbitration? ___ Yes ___ No
If yes, what matters were subject to binding arbitration?
___ Child custody
made parental selection? ___ Yes ___ No

C. Visitation or parenting time
Approximate percentage of parenting time per year (or number of days) for: ___ Mother ___ Father
Parenting time was contested? ___ Yes ___ No

D. __ Child Support
(i) Forms attached? ___ Yes ___ No

E. __ Legitimation/ Paternity

F. __ Alimony

G. __ Contempt

H. __ Equitable Division

I. __ Protective Order
Finding of family violence? ___ Yes ___ No

J. __ Adoption

K. __ Attorney's fees? ___Yes ___ No
If yes, in what amount: $_____
and to whom: _____

L. __ Other (specify) _____
_____

___ Visitation or Parenting Time 4. __ Dismissed prior to
___ Parenting Plan granting of relief.

"

SECTION 5.

Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to child custody proceedings, is amended by revising in its entirety Article 1, relating to general provisions, as follows:

"ARTICLE 1

19-9-1.

(a) Except when a parent seeks emergency relief for family violence pursuant to Code Section 19-13-3 or 19-13-4, in all cases in which the custody of any child is at issue between the parents, each parent shall prepare a parenting plan or the parties may jointly submit a parenting plan. It shall be in the judge's discretion as to when a party shall be required to submit a parenting plan to the judge. A parenting plan shall be required for permanent custody and modification actions and in the judge's discretion may be required for temporary hearings. The final decree in any legal action involving the custody of a child, including modification actions, shall incorporate a permanent parenting plan.

(b)(1) Unless otherwise ordered by the judge, a parenting plan shall include the following:

(A) A recognition that a close and continuing parent-child relationship and continuity in the child's life will be in the child's best interest;

(B) A recognition that the child's needs will change and grow as the child matures and demonstrate that the parents will make an effort to parent that takes this issue into account so that future modifications to the parenting plan are minimized;

(C) A recognition that a parent with physical custody will make day-to-day decisions and emergency decisions while the child is residing with such parent; and

(D) That both parents will have access to all of the child's records and information, including, but not limited to, education, health, extracurricular activities, and religious communications.

(2) Unless otherwise ordered by the judge, or agreed upon by the parties, a parenting plan shall include, but not be limited to:

(A) Where and when a child will be in each parent's physical care, designating where the child will spend each day of the year;

(B) How holidays, birthdays, vacations, school breaks, and other special occasions will be spent with each parent including the time of day that each event will begin and end;

(C) Transportation arrangements including how the child will be exchanged between the parents, the location of the exchange, how the transportation costs will be paid, and any other matter relating to the child spending time with each parent;

(D) Whether supervision will be needed for any parenting time and, if so, the particulars of the supervision;

(E) An allocation of decision-making authority to one or both of the parents with regard to the child's education, health, extracurricular activities, and religious upbringing, and if the parents agree the matters should be jointly decided, how to resolve a situation in which the parents disagree on resolution; and

(F) What, if any, limitations will exist while one parent has physical custody of the child in terms of the other parent contacting the child and the other parent's right to access education, health, extracurricular activity, and religious information regarding the child.

(c) If the parties cannot reach agreement on a permanent parenting plan, each party shall file and serve a proposed parenting plan on or before the date set by the judge. Failure to comply with filing a parenting plan may result in the judge adopting the plan of the opposing party if the judge finds such plan to be in the best interests of the child.

19-9-1.1.

In all proceedings under this article, it shall be expressly permissible for the parents of a child to agree to binding arbitration on the issue of child custody and matters relative to visitation, parenting time, and a parenting plan. The parents may select their arbiter and decide which issues will be resolved in binding arbitration. The arbiter's decisions shall be incorporated into a final decree awarding child custody unless the judge makes specific written factual findings that under the circumstances of the parents and the child the arbiter's award would not be in the best interests of the child. In its judgment, the judge may supplement the arbiter's decision on issues not covered by the binding arbitration.

19-9-1.2.

Pursuant to Code Section 9-11-3, and in addition to the filing requirements contained in Code Section 19-6-15, in all proceedings under this article the plaintiff shall file a domestic relations case filing information form as set forth in Code Section 9-11-133.

19-9-2.

Upon the death of either parent, the survivor is entitled to custody of the child; provided, however, that the judge, upon petition, may exercise discretion as to the custody of the child, looking solely to the child's best interest and welfare.

19-9-3.

(a)(1) In all cases in which the custody of any child is at issue between the parents, there shall be no prima-facie right to the custody of the child in the father or mother. There

shall be no presumption in favor of any particular form of custody, legal or physical, nor in favor of either parent. Joint custody may be considered as an alternative form of custody by the judge and the judge at any temporary or permanent hearing may grant sole custody, joint custody, joint legal custody, or joint physical custody as appropriate.

(2) The judge hearing the issue of custody shall make a determination of custody of a child and such matter shall not be decided by a jury. The judge may take into consideration all the circumstances of the case, including the improvement of the health of the party seeking a change in custody provisions, in determining to whom custody of the child should be awarded. The duty of the judge in all such cases shall be to exercise its discretion to look to and determine solely what is for the best interest of the child and what will best promote the child's welfare and happiness and to make his or her award accordingly.

(3) In determining the best interests of the child, the judge may consider any relevant factor including, but not limited to:

(A) The love, affection, bonding, and emotional ties existing between each parent and the child;

(B) The love, affection, bonding, and emotional ties existing between the child and his or her siblings, half siblings, and stepsiblings and the residence of such other children;

(C) The capacity and disposition of each parent to give the child love, affection, and guidance and to continue the education and rearing of the child;

(D) Each parent's knowledge and familiarity of the child and the child's needs;

(E) The capacity and disposition of each parent to provide the child with food, clothing, medical care, day-to-day needs, and other necessary basic care, with consideration made for the potential payment of child support by the other parent;

(F) The home environment of each parent considering the promotion of nurturance and safety of the child rather than superficial or material factors;

(G) The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;

(H) The stability of the family unit of each of the parents and the presence or absence of each parent's support systems within the community to benefit the child;

(I) The mental and physical health of each parent;

(J) Each parent's involvement, or lack thereof, in the child's education, social, and extracurricular activities;

(K) Each parent's employment schedule and the related flexibility or limitations, if any, of a parent to care for the child;

(L) The home, school, and community record and history of the child, as well as any health or educational special needs of the child;

(M) Each parent's past performance and relative abilities for future performance of parenting responsibilities;

(N) The willingness and ability of each of the parents to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent, consistent with the best interest of the child;

(O) Any recommendation by a court appointed custody evaluator or guardian ad litem;

(P) Any evidence of family violence or sexual, mental, or physical child abuse or criminal history of either parent; and

(Q) Any evidence of substance abuse by either parent.

(4) In addition to other factors that a judge may consider in a proceeding in which the custody of a child or visitation or parenting time by a parent is at issue and in which the judge has made a finding of family violence:

(A) The judge shall consider as primary the safety and well-being of the child and of the parent who is the victim of family violence;

(B) The judge shall consider the perpetrator's history of causing physical harm, bodily injury, assault, or causing reasonable fear of physical harm, bodily injury, or assault to another person;

(C) If a parent is absent or relocates because of an act of domestic violence by the other parent, such absence or relocation for a reasonable period of time in the circumstances shall not be deemed an abandonment of the child for the purposes of custody determination; and

(D) The judge shall not refuse to consider relevant or otherwise admissible evidence of acts of family violence merely because there has been no previous finding of family violence. The judge may, in addition to other appropriate actions, order supervised visitation or parenting time pursuant to Code Section 19-9-7.

(5) In all custody cases in which the child has reached the age of 14 years, the child shall have the right to select the parent with whom he or she desires to live. The child's selection for purposes of custody shall be presumptive unless the parent so selected is determined not to be in the best interests of the child. The parental selection by a child who has reached the age of 14 may, in and of itself, constitute a material change of condition or circumstance in any action seeking a modification or change in the custody of that child; provided, however, that such selection may only be made once within a period of two years from the date of the previous selection and the best interests of the child standard shall apply.

(6) In all custody cases in which the child has reached the age of 11 but not 14 years, the judge shall consider the desires and educational needs of the child in determining which parent shall have custody. The judge shall have complete discretion in making this determination, and the child's desires shall not be controlling. The judge shall further have broad discretion as to how the child's desires are to be considered, including through the report of a guardian ad litem. The best interests of the child standard shall be controlling. The parental selection of a child who has reached the age of 11 but not 14 years shall not, in and of itself, constitute a material change of condition or circumstance in any action seeking a modification or change in the custody of that child.

The judge may issue an order granting temporary custody to the selected parent for a trial period not to exceed six months regarding the custody of a child who has reached the age of 11 but not 14 years where the judge hearing the case determines such a temporary order is appropriate.

(7) The judge is authorized to order a psychological custody evaluation of the family or an independent medical evaluation. In addition to the privilege afforded a witness, neither a court appointed custody evaluator nor a court appointed guardian ad litem shall be subject to civil liability resulting from any act or failure to act in the performance of his or her duties unless such act or failure to act was in bad faith.

(8) If requested by any party on or before the close of evidence in a contested hearing, the permanent court order awarding child custody shall set forth specific findings of fact as to the basis for the judge's decision in making an award of custody including any relevant factor relied upon by the judge as set forth in paragraph (3) of this subsection. Such order shall set forth in detail why the court awarded custody in the manner set forth in the order and, if joint legal custody is awarded, a manner in which final decision making on matters affecting the child's education, health, extracurricular activities, religion, and any other important matter shall be decided. Such order shall be filed within 30 days of the final hearing in the custody case, unless extended by order of the judge with the agreement of the parties.

(b) In any case in which a judgment awarding the custody of a child has been entered, on the motion of any party or on the motion of the judge, that portion of the judgment effecting visitation rights between the parties and their child or parenting time may be subject to review and modification or alteration without the necessity of any showing of a change in any material conditions and circumstances of either party or the child, provided that the review and modification or alteration shall not be had more often than once in each two-year period following the date of entry of the judgment. However, this subsection shall not limit or restrict the power of the judge to enter a judgment relating to the custody of a child in any new proceeding based upon a showing of a change in any material conditions or circumstances of a party or the child.

(c) In the event of any conflict between this Code section and any provision of Article 3 of this chapter, Article 3 shall apply.

(d) It is the express policy of this state to encourage that a child has continuing contact with parents and grandparents who have shown the ability to act in the best interest of the child and to encourage parents to share in the rights and responsibilities of raising their child after such parents have separated or dissolved their marriage or relationship.

(e) Upon the filing of an action for a change of child custody, the judge may in his or her discretion change the terms of custody on a temporary basis pending final judgment on such issue. Any such award of temporary custody shall not constitute an adjudication of the rights of the parties.

(f)(1) In any case in which a judgment awarding the custody of a child has been entered, the court entering such judgment shall retain jurisdiction of the case for the purpose of

ordering the custodial parent to notify the court of any changes in the residence of the child.

(2) In any case in which visitation rights or parenting time has been provided to the noncustodial parent and the court orders that the custodial parent provide notice of a change in address of the place for pickup and delivery of the child for visitation or parenting time, the custodial parent shall notify the noncustodial parent, in writing, of any change in such address. Such written notification shall provide a street address or other description of the new location for pickup and delivery so that the noncustodial parent may exercise such parent's visitation rights or parenting time.

(3) Except where otherwise provided by court order, in any case under this subsection in which a parent changes his or her residence, he or she must give notification of such change to the other parent and, if the parent changing residence is the custodial parent, to any other person granted visitation rights or parenting time under this title or a court order. Such notification shall be given at least 30 days prior to the anticipated change of residence and shall include the full address of the new residence.

(g) Except as provided in Code Section 19-6-2, and in addition to the attorney's fee provisions contained in Code Section 19-6-15, the judge may order reasonable attorney's fees and expenses of litigation, experts, and the child's guardian ad litem and other costs of the child custody action and pretrial proceedings to be paid by the parties in proportions and at times determined by the judge. Attorney's fees may be awarded at both the temporary hearing and the final hearing. A final judgment shall include the amount granted, whether the grant is in full or on account, which may be enforced by attachment for contempt of court or by writ of fieri facias, whether the parties subsequently reconcile or not. An attorney may bring an action in his or her own name to enforce a grant of attorney's fees made pursuant to this subsection.

(h) In addition to filing requirements contained in Code Section 19-6-15, upon the conclusion of any proceeding under this article, the domestic relations final disposition form as set forth in Code Section 9-11-133 shall be filed.

19-9-4.

(a) On motion of either party in any action or proceeding involving determination of the award of child custody between parents of the child, when such motion contains a specific recitation of actual abuse, neglect, or other overt acts which have adversely affected the health and welfare of the child, the judge may direct the appropriate family and children services agency or any other appropriate entity to investigate the home life and home environment of each of the parents. In any action or proceeding involving determination of the award of child custody between parents of the child when during such proceedings a specific recitation of actual abuse, neglect, or other overt acts which have adversely affected the health and welfare of the child has been made the judge shall also have authority on his or her own motion to order such an investigation if in the judge's opinion the investigation would be useful in determining placement or custody of the child. The

judge may also direct either party to pay to the agency the reasonable cost, or any portion thereof, of the investigation. The report of the investigation will be made to the judge directing the investigation. Any report made at the direction of the judge shall be made available to either or both parties for a reasonable period of time prior to the proceedings at which any temporary or permanent custody is to be determined. Both parties shall have the right to confront and cross-examine the person or persons who conducted the investigation or compiled the report if adequate and legal notice is given.
(b) This Code section shall apply only with respect to actions or proceedings in which the issue of child custody is contested; and this Code section is not intended to alter or repeal Code Sections 49-5-40 through 49-5-44.

19-9-5.
(a) In all proceedings under this article between parents, it shall be expressly permissible for the parents of a child to present to the judge an agreement respecting any and all issues concerning custody of the child. As used in this Code section, the term 'custody' shall include, without limitation, joint custody as such term is defined in Code Section 19-9-6. As used in this Code section, the term 'custody' shall not include payment of child support.
(b) The judge shall ratify the agreement and make such agreement a part of the judge's final judgment in the proceedings unless the judge makes specific written factual findings as a part of the final judgment that under the circumstances of the parents and the child in such agreement that the agreement would not be in the best interests of the child. The judge shall not refuse to ratify such agreement and to make such agreement a part of the final judgment based solely upon the parents' choice to use joint custody as a part of such agreement.
(c) In his or her judgment, the judge may supplement the agreement on issues not covered by such agreement.

19-9-6.
As used in this article, the term:
(1) 'Joint custody' means joint legal custody, joint physical custody, or both joint legal custody and joint physical custody. In making an order for joint custody, the judge may order joint legal custody without ordering joint physical custody.
(2) 'Joint legal custody' means both parents have equal rights and responsibilities for major decisions concerning the child, including the child's education, health care, extracurricular activities, and religious training; provided, however, that the judge may designate one parent to have sole power to make certain decisions while both parents retain equal rights and responsibilities for other decisions.
(3) 'Joint physical custody' means that physical custody is shared by the parents in such a way as to assure the child of substantially equal time and contact with both parents.
(4) 'Sole custody' means a person, including, but not limited to, a parent, has been awarded permanent custody of a child by a court order. Unless otherwise provided by

court order, the person awarded sole custody of a child shall have the rights and responsibilities for major decisions concerning the child, including the child's education, health care, extracurricular activities, and religious training, and the noncustodial parent shall have the right to visitation or parenting time. A person who has not been awarded custody of a child by court order shall not be considered as the sole legal custodian while exercising visitation rights or parenting time.

19-9-7.

(a) A judge may award visitation or parenting time to a parent who committed one or more acts involving family violence only if the judge finds that adequate provision for the safety of the child and the parent who is a victim of family violence can be made. In a visitation or parenting time order, a judge may:

(1) Order an exchange of a child to occur in a protected setting;

(2) Order visitation or parenting time supervised by another person or agency;

(3) Order the perpetrator of family violence to attend and complete, to the satisfaction of the judge, a certified family violence intervention program for perpetrators as defined in Article 1A of Chapter 13 of this title as a condition of the visitation or parenting time;

(4) Order the perpetrator of family violence to abstain from possession or consumption of alcohol, marijuana, or any Schedule I controlled substance listed in Code Section 16-13-25 during the visitation or parenting time and for 24 hours preceding the visitation or parenting time;

(5) Order the perpetrator of family violence to pay a fee to defray the costs of supervised visitation or parenting time;

(6) Prohibit overnight visitation or parenting time;

(7) Require a bond from the perpetrator of family violence for the return and safety of the child; and

(8) Impose any other condition that is deemed necessary to provide for the safety of the child, the victim of family violence, or another family or household member.

(b) Whether or not visitation or parenting time is allowed, the judge may order the address of the child and the victim of family violence to be kept confidential.

(c) The judge shall not order an adult who is a victim of family violence to attend joint counseling with the perpetrator of family violence as a condition of receiving custody of a child or as a condition of visitation or parenting time.

(d) If a judge allows a family or household member to supervise visitation or parenting time, the judge shall establish conditions to be followed during visitation or parenting time."

SECTION 6.

Code Section 19-7-22 of the Official Code of Georgia Annotated, relating to petition for legitimation of a child, is amended by revising subsection (f.1) as follows:

"(f.1) The petition for legitimation may also include claims for visitation, parenting time, or custody. If such claims are raised in the legitimation action, the court may order, in addition to legitimation, visitation, parenting time, or custody based on the best interests of the child standard. In a case involving allegations of family violence, the provisions of paragraph (4) of subsection (a) of Code Section 19-9-3 shall also apply."

SECTION 7.

Chapter 5 of Title 19 of the Official Code of Georgia Annotated, relating to divorce, is amended by striking subsection (a) of Code Section 19-5-1, relating to granting total divorces and referral for alternative dispute resolution, and inserting in lieu thereof the following:

"(a) Total divorces may be granted in proper cases by the superior court; provided, however, that the parties shall comply with Code Section 19-5-1.1 if it is applicable. Unless an issuable defense is filed as provided by law and a jury trial is demanded in writing by either party on or before the call of the case for trial, in all petitions for divorce and permanent alimony the judge shall hear and determine all issues of law and of fact and any other issues raised in the pleadings."

SECTION 8.

This Act shall become effective on January 1, 2008, and shall apply to all child custody proceedings and modifications of child custody filed on or after January 1, 2008.

SECTION 9.

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

Approved May 29, 2007.

PROFESSIONS – RESIDENTIAL AND GENERAL CONTRACTORS; LICENSES; EXAMINATIONS; APPLICATIONS.

No. 322 (Senate Bill No. 115).

AN ACT

To amend Chapter 41 of Title 43 of the Official Code of Georgia Annotated, relating to residential and general contractors, so as to revise the licensure provisions for residential and general contractors; to revise certain definitions; to provide that the State Licensing Board for Residential and General Contractors may provide interpretation and guidance on the policies and procedures of the board; to provide for inactive licenses; to provide for

categories of licenses; to allow the board to contract for the development and administration of examinations; to revise the manner of renewing licenses; to revise certain dates; to provide for penalties for intentionally attempting to evade licensing requirements; to provide for exceptions to licensing requirements; to provide for a period to file applications for exemption; to provide for the posting of certain licensing requirements and the effective dates of such requirements; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 41 of Title 43 of the Official Code of Georgia Annotated, relating to residential and general contractors, is amended by revising paragraphs (4), (5), and (7) of Code Section 43-41-2, relating to definitions, as follows:

"(4) 'Contractor,' except as specifically exempted by this chapter, means a person who is qualified, or required to be qualified, under this chapter and who, for compensation, contracts to, offers to undertake or undertakes to, submits a bid or a proposal to, or personally or by others performs the construction or the management of the construction for an owner of any building, bridge, or other structure, including a person who installs industrialized buildings as defined in paragraphs (3) and (4) of Code Section 8-2-111, for the construction or improvement of, addition to, or the repair, alteration, or remodeling of any such building, bridge, or structure for use by the owner or by others or for resale to others. The term 'contractor' for purposes of this chapter shall include a person who contracts to, undertakes to, or submits a bid or proposal to perform, or otherwise does himself or herself perform, for an owner:

(A) Construction management services relative to the performance by others of such construction activities where the person performing such construction management services is at risk contractually to the owner for the performance and cost of the construction; and

(B) Services of a contractor as part of performance of design-build services, whether as a prime contractor, joint venture partner, or as a subcontractor to a design professional acting as prime contractor as part of a design-build entity or combination.

Both residential and general contractors, in addition to contractors licensed under Chapter 14 of this title to perform such work or any component thereof, shall be permitted to construct storm-water management systems comprising any storm-water conveyance or storm-water detention facility that moves storm or surface water from a specific point on a wholly contained construction project site to another specific point on the same project site and which are wholly contained within the project site and are not part of or connected to any public or private water treatment system, waste-water treatment system, or storm-water system.

(5) 'General contractor' means a contractor whose services are unlimited as to the type of work which he or she may do, subject to the financial limitations as may be imposed by a subclassification created pursuant to paragraph (8) of subsection (b) of Code Section 43-41-5, and who may contract for, undertake to perform, submit a bid or a proposal or otherwise offer to perform, and perform any activity or work as a contractor requiring licensure under this chapter including within its scope any work requiring licensure under Chapter 14 of this title; provided, however, that any work contractually undertaken by a general contractor in the nature of electrical contracting, plumbing, conditioned air contracting, low voltage contracting, or utility contracting which falls within the licensing requirements of Chapter 14 of this title may not be performed by the general contractor but shall only be performed by a person who is duly licensed to perform such work under Chapter 14 of this title. The construction of all private, commercial, institutional, industrial, public, and other buildings and structures under contract with or engagement directly by an owner shall be undertaken by a general contractor, except as otherwise expressly set forth in or excluded from operation of this chapter."

"(7) 'Qualifying agent' means a person who possesses the requisite skill, knowledge, and experience and has the responsibility to supervise, direct, manage, and control all of the contracting activities within the State of Georgia of a contractor doing business in the form of a business organization, with which he or she is affiliated by employment or ownership; who has the responsibility to supervise, direct, manage, and control construction activities on any project for which he or she has obtained the building permit pursuant to Code Section 43-41-14; and whose technical and personal qualifications have been determined by investigation and examination as provided in this chapter, except as exempted under Code Section 43-41-8, as attested by the division."

SECTION 2.

Said chapter is further amended by revising subsections (b) and (c) of Code Section 43-41-3, relating to the creation of State Licensing Board for Residential and General Contractors, as follows:

"(b) The residential contractor division shall consist of seven members and, except as otherwise expressly stated in this chapter, shall have jurisdiction of and authority over the practice of the two subcategories of residential contracting, residential-basic contractors and residential-light commercial contractors. Five members shall be residential contractors eligible for licensure under this chapter. Effective July 1, 2008, all residential contractor members shall be required to be licensed under this chapter. At least two of the residential contractor members shall be qualified to perform residential-light commercial type projects; three shall be qualified and shall predominantly perform residential-basic type projects; one shall be a residential contractor whose business predominately involves remodeling projects; one shall be a residential contractor who constructs at least an average

of 20 residences per year; and all must be geographically diverse. One member shall be a public building official and one member shall be a public member. The public member shall have no ties with the residential construction industry and shall represent the interests of the public at large. The initial member terms on the residential contractor division shall be staggered so that all terms do not expire simultaneously. Three members shall serve initial terms of five years, three members shall serve initial terms of four years, and one member shall serve an initial term of three years. The residential contractor division shall meet at least six times each year for the purpose of transacting such business as may properly come before it.

(c) The general contractor division shall consist of seven members and, except as otherwise expressly stated in this chapter, shall have jurisdiction of and authority over the practice of general contracting. Five members shall be general contractors eligible for licensure under this chapter. Effective July 1, 2008, all general contractor members shall be required to be licensed under this chapter. At least two of the general contractor members shall be small-volume builders with an annual contracting volume of less than $5 million and all of whom must be geographically diverse. One member shall be a currently licensed or registered architect or engineer and one member shall be a public building official. The initial member terms on the general contractor division shall be staggered so that all terms do not expire simultaneously. Three members, including at least two contractor members, shall serve initial terms of five years; three members, including at least two contractor members, shall serve initial terms of four years; and one member shall serve an initial term of three years. The general contractor division shall meet at least six times each year for the purpose of transacting such business as may properly come before it."

SECTION 3.

Said chapter is further amended by revising subsections (b) and (f) of Code Section 43-41-5, relating to board meetings and the power of the board and its divisions, as follows:

"(b) The board and its divisions shall have the power to:

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

(2) Provide by regulation for reciprocity with other states or territories of the United States in the licensing of residential and general contractors, provided that such other states have requirements substantially equal to the requirements in force in this state for registration, licensure, or certification and that any such contractor holding a current and valid license, certificate, or registration from another state or territory seeking licensure by way of reciprocity shall demonstrate that such applicant meets, in the discretion of the respective division, the qualifications, requirements, and criteria set forth in Code

Section 43-41-6, other than the requirement to take and pass an examination as set forth in subsection (d) of Code Section 43-41-6, and that such applicant is otherwise in compliance with all requirements of the State of Georgia for transaction of such business within this state; provided, further, that a similar privilege is offered to residents of this state by the other state or territory;

(3) Establish and adjust fees as necessary within the limits set forth in Chapter 1 of this title;

(4) Adopt official seals for their use and change them at pleasure;

(5) Establish the policies and procedures for regulating the businesses of residential contracting and general contracting and provide interpretation and guidance regarding the implementation and application of such policies and procedures;

(6) Determine qualifications for licensure or certification, including such experience requirements as the board deems necessary;

(7) Promulgate and adopt rules and regulations necessary to carry out this chapter;

(8) Establish and define appropriate categories of general contractor licensure based upon financial criteria; and

(9) Allow for inactive status pursuant to Code Section 43-1-22."

"(f) The denial of a license on grounds other than those enumerated in this chapter, the issuance of a private reprimand, the denial of a license by reciprocity, the denial of a request for reinstatement of a revoked license, or the refusal to issue a previously denied license shall not be considered to be a contested case within the meaning of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Notice and hearing within the meaning of Chapter 13 of Title 50 shall not be required, but the applicant or licensee shall be allowed to appear before the appropriate division if he or she so requests."

SECTION 4.

Said chapter is further amended by revising subsections (a), (f), (i), and (j) of Code Section 43-41-6, relating to eligibility for licensure as residential-basic contractor, residential-light commercial contractor, and general contractor, as follows:

"(a) Anyone seeking to be licensed as a residential contractor or as a general contractor in this state shall file an application on a form provided by the residential contractor or general contractor division, respectively, accompanied by an application fee as provided by the board. Such an application may be submitted either by:

(1) An individual person seeking issuance of a license in his or her own name for purposes of engaging in the profession of residential or general contracting in his or her own name or doing business as an individual in a trade name as a sole proprietorship; or

(2) An individual person affiliated by ownership or employment with and acting as a qualifying agent for a business organization seeking to engage in the profession of residential or general contracting in the name of the business organization in accordance with and pursuant to Code Section 43-41-9.

Additionally, all applicants must submit to and successfully pass an examination prepared by, prepared for, or approved by the appropriate division, except where an applicant is otherwise qualified for licensure and has satisfied the appropriate division requirements and regulations for licensure pursuant to Code Section 43-41-8 exempting such applicant from the examination requirement or where the applicant is an individual acting as a qualifying agent for a business organization and has previously obtained and maintained continuously a license issued by the appropriate division, either as an individual doing business in his or her own name or doing business as an individual in a trade name as a sole proprietor or as a qualifying agent for another business organization."

"(f)(1) The residential contractor division and the general contractor division shall each conduct or cause to be conducted an examination of all qualified applicants, except those exempted from the examination requirement pursuant to Code Section 43-41-8.

(2) The residential contractor division shall conduct or cause to be conducted separate examinations for applicants for residential-basic and residential-light commercial licenses for the purpose of determining a particular applicant's ability to make a practical application of his or her knowledge of the profession of residential contracting in the particular subcategory for which a license is sought; the applicant's qualifications in reading plans and specifications; his or her knowledge of building codes, estimating costs, construction, ethics, contracting, and other similar matters pertaining to such residential contracting business; his or her knowledge as to the responsibilities of a residential contractor to the public and to owners, subcontractors, and suppliers; and his or her knowledge of the requirements of the laws of this state relating to residential-basic and residential light-commercial contractors, construction, workers' compensation, insurance, and liens.

(3) The general contractor division shall conduct or cause to be conducted an examination to ascertain the particular applicant's ability to make a practical application of his or her knowledge of the profession of commercial general contracting; the applicant's qualifications in reading plans and specifications; his or her knowledge of building codes, estimating costs, construction, ethics, contracting, and other similar matters pertaining to the general contracting business; his or her knowledge as to the responsibilities of a general contractor to the public and to owners, subcontractors, and suppliers; and his or her knowledge of the requirements of the laws of this state relating to general contractors, construction, workers' compensation, insurance, surety bonding, and liens.

(4) If the results of the applicant's examination are satisfactory to the appropriate division, or he or she is exempted from the examination requirement under Code Section 43-41-8, and if he or she and any affiliated business organization has met the other qualifications and requirements set forth in this Code section, then the appropriate division shall issue to the applicant a license to engage in business as a residential or general contractor in this state, as provided in such license, in his or her own name as a sole proprietor or as a qualifying agent for the affiliated business organization and in the

name of such business organization, pursuant to and in accordance with the requirements set forth in Code Section 43-41-9. A residential contracting license shall indicate for which of the two subcategories, residential-basic or residential-light commercial, the licensee is qualified."

"(i) Such licenses shall be renewable biennially. Licenses may be renewed subsequent to their expiration within six months of the date of expiration by submitting a renewal as prescribed by the board and paying a late renewal fee as determined by the board. After six months has elapsed from the date of expiration, such license may be reinstated in accordance with the rules and regulations of the board.

(j) The division director shall give advance notice to each person holding a license under this chapter of the date of the expiration of the certificate of registration and the amount of the fee required for renewal at least one month prior to the expiration date, but the failure to receive such notice shall not avoid the expiration of any license not renewed in accordance with this Code section."

SECTION 5.

Said chapter is further amended by revising Code Section 43-41-8, relating to eligibility for licensure without examination, as follows:

"43-41-8.

(a) Notwithstanding any other provision of this chapter to the contrary, the following persons desiring to qualify for a residential contractor license or a general contractor license under the provisions of this chapter, either individually or as a qualifying agent, shall be eligible for issuance of such a license by the appropriate division without examination, provided that such person submits a proper application and proofs, pays or has paid the required fees, otherwise meets the requirements of Code Section 43-41-6 for licensure, and is not otherwise in violation of this chapter:

(1) Any person who holds a current and valid license to engage in the comparable category of residential or general contracting issued to him or her by any governing authority of any political subdivision of this state which requires passing an examination which is substantially similar to the state examination for residential or general contractors, provided that such person is a Georgia resident and citizen, if an individual applying in his or her own behalf, or is seeking licensure as a qualifying agent for a business organization incorporated in Georgia or otherwise authorized and certified to transact business in Georgia with a regular office and place of business in Georgia currently and having had such office and place of business continuously for the five years immediately preceding such application; provided, further, that the examination results are made available to the appropriate division. Such application and request for exemption must be submitted within the time limits set forth in subsection (a) of Code Section 43-41-17;

(2) Any person who has successfully and efficiently engaged in the comparable category of residential or general contracting in this state as provided in this Code section;

provided, however, that such person shall be either a resident and citizen of the state of Georgia or, if applying as a qualifying agent for a business organization, such business organization shall be either incorporated in Georgia or is a business organization otherwise authorized and certified to transact business in Georgia with a regular office and place of business in Georgia currently and having had such office and place of business continuously for the five years immediately preceding such application; provided, further, that such application and request for exemption is submitted within the time limits set forth in subsection (a) of Code Section 43-41-17. To prove that he or she has successfully engaged in residential-basic or residential-light commercial projects, the person shall be required to give evidence of three successful projects located in Georgia which were successfully completed over the period of five years immediately prior to the time of application; evidence of ten successfully completed residential-basic or residential-light commercial projects located in Georgia over the period of ten years immediately prior to the time of application; or evidence that he or she has participated in or been engaged in residential-basic or residential-light commercial construction in a supervisory or management capacity for seven of the ten years immediately prior to the time of application. To prove that he or she has successfully engaged in commercial general contracting, the person submitting the application shall be required to give evidence of five successful general contracting projects located in Georgia which were successfully completed over the period of five years immediately prior to the time of application or evidence of ten successful general contracting projects located in Georgia which were successfully completed over the period of ten years immediately prior to the time of application, such projects having been performed either by such person acting as an individual or by a business organization in which such individual person was affiliated by employment or ownership and over which such person had general oversight and management responsibilities;

(3) Any person who holds a current and valid license to practice a comparable category of residential or general contracting issued by another state or territory of the United States, where either such state or territory has entered into a reciprocal agreement with the board and divisions for the recognition of contractor licenses issued in that state or territory, or such application is pursuant to and in accordance with the regulations and requirements for reciprocity promulgated by the divisions in accordance with subsection (b) of Code Section 43-41-5. Additionally, such application shall meet the following requirements:

(A) The criteria for issuance of such license or certification by such other state or territory, including the requirement to successfully complete an examination, were substantially equivalent to Georgia's current license criteria;

(B) The application requirements and application form submitted to the other state or territory upon which such license was issued are available for review by the appropriate division and the examination results are made available to the appropriate division;

(C) The applicant shall demonstrate that he or she meets the qualifications, requirements, and criteria set forth in subsections (a), (b), (c), and (d) of Code Section 43-41-6; and

(D) The applicant is otherwise in compliance with all requirements of this state for transaction of such business within this state; provided, however, that such application and request for exemption shall be submitted in accordance with subsection (a) of Code Section 43-41-17; and

(4) Any person who holds a current and valid license issued under this chapter to engage in the comparable category of residential or general contracting which license was issued to him or her in their capacity either as an individual licensee or as a qualifying agent for a business organization.

(b) Any applicant for issuance of a residential contractor or general contractor license under this title who shall seek exemption from the examination requirement under this Code section, on any basis set forth above, shall have the burden of establishing to the satisfaction and within the discretion of the appropriate division that the requirements for such exemption have been satisfied. The decision of such division as to the satisfaction of the requirements for such exemption from taking the examination shall, in the absence of fraud, be conclusive."

SECTION 6.

Said chapter is further amended by revising Code Section 43-41-9, relating to licensing of individuals and organizations, as follows:

"43-41-9.

(a) If an individual applicant proposes to engage in residential or general contracting in the individual's own name or a trade name where the individual is doing business as a sole proprietorship, the license shall be issued only to that individual. Where an applicant under this chapter is seeking issuance of a residential or general contractor license on behalf and for the benefit of a business organization seeking to engage in residential or general contracting as a business organization, the application for a license under this chapter must be submitted by and through an individual qualifying agent for such business organization or entity and expressly on behalf of such business organization or entity. In such case, the license shall be issued to the individual qualifying agent and to the affiliated business organization or entity on whose behalf the application was made. It shall be unlawful for any person, firm, corporation, or association to operate a business organization or entity engaged in the business of residential or general contracting without first obtaining a license from the appropriate division after the effective date of the licensing requirements as specified in subsection (a) of Code Section 43-41-17. The appropriate division shall not issue a license to any business organization or entity to engage in residential or general contracting unless such business organization or entity employs at least one currently licensed individual residential or general contractor serving as its qualifying agent who is actually engaged by ownership or employment in the practice of residential or general

contracting for such business organization or entity and provides adequate supervision and is responsible for the projects of such business organization or entity. A business organization may allow more than one person to act as a qualifying agent for such organization, subject to each such individual qualifying agent having successfully satisfied the requirements for issuance of a license under this chapter and having obtained issuance of such a license by the appropriate division. Each such business organization shall have at least one qualifying agent in order to be considered authorized to engage in such contracting business.

(b) The application for a license by a qualifying agent must include an affidavit on a form provided by the board attesting that the individual applicant has final approval authority for all construction work performed by the business organization or entity within the State of Georgia and that the individual applicant has final approval authority on all business matters, including contracts and contract performance and financial affairs of the business organization or entity.

(c) A joint venture is considered a separate and distinct organization for licensing purposes under this chapter and must be qualified and licensed in accordance with the appropriate division's rules and regulations either:

(1) In its own name as a separate business organization; or

(2) By each of the members of the joint venture doing business as a residential contractor or general contractor holding, as an individual or as a business organization acting through its qualifying agent, a valid and current residential or general contractor's license issued by the appropriate division.

Each such licensed individual or qualifying agent shall be considered a qualifying agent of such joint venture.

(d) If, during the period encompassed by a license issued to a qualifying agent acting for and on behalf of an affiliated business organization, there is a change in any information that is required to be stated on the application, the business organization shall, within 45 days after such change occurs, furnish the correct information to the appropriate division.

(e)(1) At least one qualifying agent shall be licensed under this chapter in order for the business organization to obtain a license as a residential or general contractor. If any qualifying agent ceases to be affiliated with such business organization, for any reason, he or she shall so inform the division having jurisdiction. In addition, if such qualifying agent is the only qualifying agent licensed hereunder affiliated with the business organization, the business organization shall promptly notify the appropriate division of the termination of the relationship with that qualifying agent and shall have 120 days from the termination of the qualifying agent's affiliation with the business organization to employ another qualifying agent and submit an application for licensure under the new qualifying agent. The submission of such application shall serve to maintain the licensed status of the business organization pending and subject to approval of such application by the appropriate division; provided that, should such application be denied by that division, then, after passage of the 120 day period, the business organization shall cease

to be considered licensed as a residential or a general contractor unless and until a new application is submitted and approved by the appropriate division. In such circumstance, the affected business organization may not thereafter engage in residential or general contracting until a new qualifying agent is employed, unless the appropriate division has granted a temporary nonrenewable license to the financially responsible officer, the president or chief executive officer, a partner, or, in the case of a limited partnership, the general partner, who thereafter shall assume all responsibilities of a qualifying agent for the business organization or entity. This temporary license shall only allow the entity to proceed with incomplete contracts already in progress. For the purposes of this paragraph, an incomplete contract is one which has been awarded to, or entered into by, the business organization prior to the cessation of affiliation of the qualifying agent with the business organization or one on which the business organization was the low bidder and the contract is subsequently awarded, regardless of whether any actual work has commenced under the contract prior to the qualifying agent ceasing to be affiliated with the business organization.

(2) A person licensed under this chapter either as an individual doing business in his or her name or doing business in a trade name as a sole proprietor may serve as a qualifying agent for a business organization upon application and demonstration of satisfaction by such business organization of all financial and insurance requirements pursuant to Code Section 43-41-6. A qualifying agent may serve in such capacity for more than one business organization, provided that he or she shall satisfy the criteria for serving in such capacity with regard to each such business organization. A qualifying agent shall inform the division having jurisdiction in writing when he or she proposes to engage in contracting in his or her own name or in affiliation as a qualifying agent with another business organization, and he or she or such new business organization shall supply the same information to the division as required of applicants under this chapter. Such person shall be deemed to be a licensed residential or general contractor for the original term of his or her license for the purpose of engaging in contracting as an individual in his or her own name, provided that he or she qualified for such license based on his or her own personal qualifications as to financial responsibility and insurance. Otherwise, such individual shall be required to submit a new application demonstrating satisfaction of such financial and insurance requirements in order to engage in the business of contracting under this chapter as an individual in his or her own name or doing business as an individual in a trade name as a sole proprietor or by the business organization he or she desires to qualify in order to obtain a license for such other business organization, but such person shall be entitled to continue engaging in the business of residential or general contracting in accordance with and under his or her previously issued license unless and until the appropriate division determines that the person seeking issuance of the license no longer meets these requirements.

(3) Upon a favorable determination by the division having jurisdiction, after investigation of the financial responsibility, if applicable, and insurance of the applicant,

the division shall notify the applicant, whether the applicant was previously approved as an individual or a qualifying agent, that the applicant is approved, without an examination, for a new license.

(f) Disciplinary action and other sanctions provided in this chapter may be administered against a business organization operating under a license issued through its licensed qualifying agent or agents in the same manner and on the same grounds as disciplinary actions or sanctions against an individual or license holder acting as its qualifying agent under this chapter. The divisions or the board may deny the license to a qualifying agent for any business organization if the qualifying agent or business organization has been involved in past disciplinary actions or on any grounds for which individual licenses can be denied.

(g) Each qualifying agent shall pay the appropriate division an amount equal to the original fee for a license applied for on behalf of a new business organization. If the qualifying agent for a business organization desires to qualify additional business organizations, the division shall require him or her to present evidence of the financial responsibility, if applicable, and insurance of each such organization.

(h) All qualifying agents for a business organization are jointly and equally responsible for supervision of all operations of the business organization, for all field work at all sites, and for financial matters within the State of Georgia, both for the organization in general and for each specific job for which his or her license was used to obtain the building permit.

(i) Any change in the status of a qualifying agent is prospective only. A qualifying agent shall for purposes of application of this chapter and the enforcement and disciplinary mechanisms thereunder be and remain responsible for his or her actions or omissions as well as those of the business organization for which such person had acted as a qualifying agent occurring during his or her period of service as such qualifying agent as and to the extent set forth in this chapter. A qualifying agent is not responsible for his or her predecessor's actions, but is responsible, even after a change in status, for matters for which he or she was responsible while in a particular status. Further, nothing in this chapter shall be interpreted as a basis for imposition of civil liability against an individual qualifying agent by any owner or other third party claimant beyond the liability that would otherwise exist legally or contractually apart from and independent of the individual's status as a qualifying agent."

SECTION 7.

Said chapter is further amended by revising Code Section 43-41-12, relating to penalty for violating provisions, as follows:

"43-41-12.

(a) Any person, whether an individual or a business organization, who:

(1) Contracts for or bids upon or engages in the construction of any of the projects or works enumerated in the definitions of residential contractor or general contractor in Code Section 43-41-2 without having first complied with the appropriate provisions of

this chapter or who shall attempt to practice residential contracting or general contracting in this state except as provided for in this chapter;

(2) Falsely represents, advertises, or holds himself or herself or an affiliated business organization out as a residential contractor or general contractor licensee duly authorized to perform work under such classification of licensure pursuant to this chapter;

(3) Represents or attempts to use or presents as his or her own the license of another person or, in the case of a business organization, a person other than its qualifying agent;

(4) Gives false or forged evidence of any kind to the board or its divisions or to any member of the board in maintaining a license;

(5) Uses an expired, suspended, or revoked license to continue engaging in residential contracting or general contracting;

(6) Operates a business organization engaged in contracting after 120 days following the termination of its only qualifying agent without designating another primary qualifying agent, except as provided in Code Section 43-41-9; or

(7) Intentionally and repeatedly misrepresents or manipulates the value or percentage of work at the time of contract under subsections (e) and (f) of Code Section 43-41-17 to avoid the licensing requirements of this chapter,

shall be guilty of a misdemeanor and shall, upon conviction, be punished for each such offense by a fine of not less than $500.00 or imprisonment of three months, or both fine and imprisonment in the discretion of the court.

(b) Any architect or engineer who recommends to any project owner the award of a contract to anyone known by such architect or engineer not to be properly licensed under this chapter shall be subject to such penalties as provided in subsection (a) of this Code section and also to any appropriate disciplinary action by the appropriate division.

(c) Except as otherwise provided in this Code section, any person who violates any provision of this chapter shall be guilty of a misdemeanor."

SECTION 8.

Said chapter is further amended by revising Code Section 43-41-14, relating to the role of building inspectors and penalty for noncompliance with chapter, as follows:

"43-41-14.

(a) Any person, whether an individual or a business organization acting through a qualifying agent, intending to perform work as a residential or general contractor, upon making application to the building inspector or such other authority of any incorporated municipality or county in this state charged with the duty of issuing building or other permits for contemplated construction work requiring performance by either a licensed residential contractor or a licensed general contractor shall, before being entitled to the issuance of such permit, furnish to such inspector or authority, personally or through his or her authorized agent specifically designated to act on his or her behalf in a sworn written document submitted contemporaneously or previously submitted and maintained by such inspector or authority, his or her residential contractor or general contractor license number

and the identity of any business organization for which such applicant is serving as qualifying agent that is undertaking or contracting as a residential contractor or a general contractor to construct or manage the construction. It shall be unlawful for any such building inspector or other authority to issue or allow the issuance of such building permit unless the applicant has furnished his or her residential contractor or general contractor license number and the identity of any such business organization relative to performance of the work for which a permit has been applied. A building inspector or other authority shall issue such building permit under the terms of this Code section to any person, including an individual licensee acting on his or her own behalf or a licensee acting as a qualifying agent for a business organization and such business organization, upon evidence reasonably establishing that such person is duly licensed as a residential or general contractor under this chapter, either individually or as a business organization acting under a duly licensed qualifying agent. Any building inspector or other such authority that issues a building permit to a person known by such building inspector or authority not to be properly licensed under this chapter shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $500.00.

(b) The licensing requirements imposed by this chapter and the effective dates of such licensing requirements must be posted by any county or municipality in this state charged with the duty of issuing building or other permits for construction work requiring performance by either a licensed residential contractor or a licensed general contractor in the same location in which such building or other permits are issued."

SECTION 9.

Said chapter is further amended by revising subsections (a), (b), (e), (f), (i), and (j) of Code Section 43-41-17, relating to effective date of licensing and sanctioning provisions, and adding a new subsection (n) as follows:

"(a) The licensing requirements imposed by this chapter and the sanctions and consequences relating thereto shall not become effective and enforceable until July 1, 2008. On and after such date, no person, whether an individual or a business organization, shall have the right to engage in the business of residential contracting or general contracting without a current, valid residential contractor license or general contractor license, respectively, issued by the division under this chapter or, in the case of a business organization, unless such business organization shall have a qualifying agent as provided in this chapter holding such a current, valid residential contractor or general contractor license on behalf of such organization issued to such qualifying agent as provided in this chapter. Notwithstanding the foregoing, persons seeking licensure under this chapter and exemption from examination under paragraphs (1) and (2) of subsection (a) of Code Section 43-41-8 shall submit their applications, including all necessary proof of the basis of exemption from examination for such license, starting January 1, 2006. The period for submission of such applications and requests for exemption from the examination requirements shall extend thereafter for a period of 18 months. Furthermore,

notwithstanding the foregoing, any person seeking licensure under this chapter and exemption from examination under paragraph (3) of subsection (a) of Code Section 43-41-8 may submit his or her application, including all necessary proof of the basis of such exemption starting January 1, 2007, and continuing thereafter.

(b) As a matter of public policy, any contract entered into on or after July 1, 2008, for the performance of work for which a residential contractor or general contractor license is required by this chapter and not otherwise exempted under this chapter and which is between an owner and a contractor who does not have a valid and current license required for such work in accordance with this chapter shall be unenforceable in law or in equity by the unlicensed contractor. For purposes of this subsection, a contractor shall be considered unlicensed only if the contractor was unlicensed on the effective date of the original contract for the work, if stated therein, or, if not stated, the date the last party to the contract executed such contract, if stated therein. If the contract does not establish such a date, the contractor shall be considered unlicensed only if the contractor was unlicensed on the first date upon which the contractor provided labor, services, or materials under the contract. Notwithstanding any other provision of law to the contrary, if a contract is rendered unenforceable under this subsection, no lien or bond claim shall exist in favor of the unlicensed contractor for any labor, services, or materials provided under the contract or any amendment thereto. This subsection shall not affect the rights of parties other than the unlicensed contractor to enforce contract, lien, or bond remedies. This subsection shall not affect the obligations of a surety that has provided a bond on behalf of an unlicensed contractor. It shall not be a defense to any claim on a bond or indemnity agreement that the principal or indemnitor is unlicensed for purposes of this subsection."

"(e) Nothing in this chapter shall prevent any person holding a valid license issued by the State Construction Industry Licensing Board, or any division thereof, pursuant to Chapter 14 of this title from performing any work defined in the Code sections under which the license held by said person was issued. Furthermore, nothing in this chapter shall preclude a person licensed under Chapter 14 of this title to perform plumbing, conditioned air contracting, utility contracting, electrical contracting, or low-voltage contracting from offering to perform, performing, engaging in, or contracting to engage in the performance of construction work or services directly with an owner, which work would otherwise require a license under this chapter, where the total scope of the work to be performed is predominantly of the type for which such contractor is duly licensed to perform under Chapter 14 of this title such that any other work involved is incidental to and an integral part of the work performed within the scope of such license under said chapter and does not exceed the greater of $10,000.00 or 25 percent of the total value at the time of contracting of the work to be performed; provided, however, that such contractor may not delegate or assign the responsibility to directly supervise and manage the performance of such other work to a person unless such person is licensed under this chapter and the work being performed by such person is within the scope of that person's license.

(f) Nothing in this chapter shall preclude a specialty contractor from offering or contracting to perform or undertaking or performing for an owner limited, specialty, or specific trade contractor work. However, nothing in this chapter shall permit a specialty contractor to perform work falling within the licensing requirements of Chapter 14 of this title where such specialty contractor is not duly licensed under such chapter to perform such work. The board shall by rule or policy by January 1, 2008 identify specialty contractors or other criteria to determine eligibility under the exemption of this subsection. The specialty contractor otherwise exempted from license requirements under this chapter may perform work for an owner that would otherwise require a license under this chapter where the total scope of the work to be performed is predominately of the type for which such specialty contractor is duly recognized as exempt under this subsection by the board, provided that such other work involved is incidental to and an integral part of the exempt work performed by the specialty contractor and does not exceed the greater of $10,000.00 or 25 percent of the total value at the time of contracting of the work to be performed."

"(i) Nothing in this chapter shall preclude an architect licensed pursuant to Chapter 4 of this title or an interior designer registered pursuant to Chapter 4 of this title or an engineer registered pursuant to Chapter 15 of this title from performing work or providing services within the scope of his or her registration for the practice of architecture or interior design or license for practicing engineering.

(j) Nothing in this chapter shall preclude an architect licensed pursuant to Chapter 4 of this title or an interior designer registered pursuant to Chapter 4 of this title or an engineer licensed pursuant to Chapter 15 of this title from offering to perform or offering or rendering design-build services to an owner; provided, however, that such offer or contract shall clearly indicate at the time of such offer or contract that all services of a general contractor incident to the design-build performance shall be performed by a duly licensed general contractor in compliance with other provisions of this chapter and that all services so offered or provided falling within the scope of the licensing requirements of this chapter are offered and rendered by a licensed general contractor in accordance with this chapter."

"(n) Nothing in this chapter shall apply to the construction or installation of manufactured homes as defined in paragraph (4) of Code Section 8-2-131."

SECTION 10.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 11.

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

Approved May 29, 2007.

MOTOR VEHICLES — PROFESSIONS AND BUSINESSES - SCRAP MOTOR VEHICLES; USE OF STATEMENT IN LIEU OF TITLE.

No. 323 (House Bill No. 171).

AN ACT

To amend Code Sections 40-3-36 and 43-43-3 of the Official Code of Georgia Annotated, relating to certificates of title for scrap motor vehicles, so as to authorize the use of a statement of the vehicle owner who does not have a valid title upon the sale of such vehicle; to prescribe conditions for use of the statement; to authorize the Department of Revenue to promulgate such statement; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 40-3-36 of the Official Code of Georgia Annotated, relating to cancellation of certificates of title for scrap motor vehicles, is amended by revising subsections (a) and (b) as follows:

"(a)(1) Any registered owner or authorized agent of a registered owner who in any manner sells or disposes of any motor vehicle as scrap metal or parts only or who scraps, dismantles, or demolishes a motor vehicle shall within 72 hours mail or deliver the certificate of title to the commissioner for cancellation.

(2) Notwithstanding any other provision of this article to the contrary, if the owner or authorized agent of the owner has not obtained a title in his or her name for the vehicle to be transferred, or has lost the title for the vehicle to be transferred, he or she may sign a statement swearing that, in addition to the foregoing conditions, the vehicle is worth $750.00 or less and is at least 12 model years old. The statement described in this paragraph may be used only to transfer such a vehicle to a licensed used motor vehicle parts dealer under Code Section 43-47-7 or scrap metal processor under Code Section 43-43-1. The department shall promulgate a form for the statement which shall include, but not be limited to:

(A) A statement that the vehicle shall never be titled again; it must be dismantled or scrapped;

(B) A description of the vehicle including the year, make, model, vehicle identification number, and color;

(C) The name, address, and driver's license number of the owner;

(D) A certification that the owner:

(i) Never obtained a title to the vehicle in his or her name; or

(ii) Was issued a title for the vehicle, but the title was lost or stolen;

(E) A certification that the vehicle:

(i) Is worth $750.00 or less;

(ii) Is at least 12 model years old; and

(iii) Is not subject to any secured interest or lien.

(F) An acknowledgment that the owner realizes this form will be filed with the department and that it is a felony, punishable by imprisonment for not fewer than one nor more than three years or a fine of not less than $1,000.00 nor more than $5,000.00, or both, to knowingly falsify any information on this statement;

(G) The owner's signature and the date of the transaction;

(H) The name and address of the business acquiring the vehicle;

(I) A certification by the business that $750.00 or less was paid to acquire the vehicle; and

(J) The business agent's signature and date along with a printed name and title if the agent is signing on behalf of a corporation.

(3) The used motor vehicle parts dealer or scrap metal processor shall mail or otherwise deliver the statement required under paragraph (2) of this subsection to the department within 72 hours of the completion of the transaction, requesting that the department cancel the Georgia certificate of title and registration.

(4)(A) The registered owner of any motor vehicle which is damaged to the extent that its restoration to an operable condition would require the replacement of the front clip assembly, which includes the fenders, hood, and bumper; the rear clip assembly, which includes the quarter panels, the floor panel assembly, and the roof assembly, excluding a soft top; the frame; and a complete side, which includes the fenders, door, and quarter panel shall mail or deliver the certificate of title to the commissioner for cancellation.

(B) A motor vehicle owner who retains possession of a damaged vehicle which is a salvage motor vehicle as defined in paragraph (11) of Code Section 40-3-2 shall surrender the license plates and registration for such vehicle, shall not operate such vehicle upon the roads of this state, and shall not sell, trade, or otherwise dispose of such vehicle prior to obtaining a salvage certificate of title for such vehicle.

(C) Any insurance company which acquires a damaged motor vehicle by virtue of having paid a total loss claim shall mail or deliver the certificate of title to the commissioner for cancellation. In every case in which a total loss claim is paid and the insurance company does not acquire such damaged motor vehicle, the insurance company paying such total loss claim, the vehicle owner, and the lienholder or security interest holder, as applicable, shall take the following steps to secure a salvage certificate of title for such motor vehicle:

(i) If the vehicle owner is in possession of the certificate of title, the owner shall deliver the certificate of title to the insurance company prior to any payment of the claim, and the insurance company shall mail or deliver the certificate of title, an

application for a salvage certificate of title, and the form provided by the commissioner for issuance of a salvage certificate of title;

(ii) If the certificate of title has been lost, destroyed, or misplaced, the vehicle owner shall, prior to payment of the claim on such vehicle, complete an application for a replacement title on the form provided by the commissioner and deliver such application and form to the insurance company and the insurance company shall mail or deliver such application and form to the commissioner for issuance of a replacement original title marked salvage;

(iii) If the lienholder or security interest holder has possession of the certificate of title, the vehicle owner shall complete an application for a replacement title on a form provided by the commissioner and shall deliver the completed form to the insurance company prior to the payment of the claim; the insurance company shall thereafter mail or deliver the application to the commissioner with notice of the payment of the total loss claim and the name and address of the lienholder or security interest holder in possession of the title. The commissioner shall mail notice to the lienholder or security interest holder that a total loss claim has been paid on the vehicle and that the title to such vehicle has been canceled, and the commissioner shall provide to the lienholder or security interest holder a salvage certificate of title for such vehicle, provided that the validity of the security interest shall not be affected by issuance of a salvage certificate of title. The lienholder or security interest holder shall, within ten days after receipt of such notice of total loss claim and cancellation of the original certificate of title, mail or deliver the canceled original certificate of title to the commissioner; or

(iv) For the sole purpose of payment of a total loss claim, for any vehicle ten years of age or older for which neither the vehicle owner nor the lienholder or security interest holder, if any, possesses a certificate of title, the vehicle owner shall deliver the vehicle license plate and certificate of registration for such vehicle to the insurance company prior to payment of any claim and the insurance company shall mail or deliver the license plate and certificate of registration to the commissioner with a completed form provided by the commissioner; provided, however, that the vehicle owner shall not operate such vehicle and the owner shall obtain a certificate of title for such vehicle as provided by law, which certificate of title shall then be subject to cancellation as provided in this paragraph.

(D) The department shall give priority to the title submissions provided for in subparagraph (C) of this paragraph and shall issue a salvage certificate of title for such vehicles within seven days of receipt of such submissions by an insurance company.

(b) Except as provided in subsection (a) of this Code section, any person, firm, or corporation which purchases or otherwise acquires a salvage motor vehicle shall apply to the commissioner for a salvage certificate of title for such motor vehicle within 30 days of the purchase or acquisition of the motor vehicle or within 30 days of the payment of a total loss claim as provided in paragraph (4) of subsection (a) of this Code section to the

registered owner of the salvage motor vehicle, if the person, firm, or corporation intends to operate or to sell, convey, or transfer the motor vehicle; and no such person, firm, or corporation shall sell, transfer, or convey a salvage motor vehicle until such person, firm, or corporation has applied for and obtained a salvage certificate of title."

SECTION 2.

Code Section 43-43-3 of the Official Code of Georgia Annotated, relating to cancellation of certificates of title for scrap motor vehicles, is revised as follows:

"43-43-3.

Should a scrap metal processor be presented the certificate of title or vehicle license plate for any vehicle or scrap vehicle purchased, that scrap metal processor shall mail or deliver the same to the Department of Revenue as required by law. In lieu of a certificate of title, an affidavit in accordance with the provisions of subsection (a) of Code Section 40-3-36 shall be obtained by a scrap metal processor. All other requirements of subsection (a) of Code Section 40-3-36 shall be complied with, including maintenance of a copy of such affidavit, and any other rules promulgated pursuant thereto."

SECTION 3.

This Act shall become effective on July 1, 2007.

SECTION 4.

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

Approved May 29, 2007.

LOCAL GOVERNMENT – CITY AND COUNTY CONSOLIDATION.

No. 324 (House Bill No. 109).

AN ACT

To amend Chapter 68 of Title 36 of Official Code of Georgia Annotated, relating to consolidation of a county and municipality through repeal of the charter of the municipality, so as to provide that under certain circumstances a county which contains no municipality shall be deemed to constitute a consolidated government and shall be subject to certain provisions of said chapter; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 68 of Title 36 of Official Code of Georgia Annotated, relating to consolidation of a county and municipality through repeal of the charter of the municipality, is amended by adding a new Code section to read as follows:

"36-68-4.

(a) If as of July 1, 2007, or at any time thereafter there exists in this state a county in which no part of any municipal corporation is located, then the governing authority of that county may elect that the county shall thenceforth be deemed to be and constituted as a consolidated government for purposes of the laws of this state. In order to be effective under this Code section, the election by the county governing authority must comply with all of the following conditions:

(1) The election shall be carried out by the adoption of an appropriate resolution by the county governing authority which must be adopted by unanimous vote of the members of the governing authority voting thereon and ratified by a majority of the electors of the county voting in a referendum;

(2) The election must be made by the county governing authority within one calendar year after July 1, 2007, or such later date as this Code section becomes applicable to the county;

(3) The county must at the time of election be providing at least three of the services specified in subsection (b) of Code Section 36-30-7.1; and

(4) Within 30 days after the adoption of the resolution and ratification by the electors of the county a certification of election must be filed by the county with the Department of Community Affairs in such form and manner as may be specified by the department.

(b) A county which is constituted as a consolidated government under this Code section shall constitute a municipal corporation as well as a county for the purpose of the application of the general laws and Constitution of this state. Such a county may exercise the powers vested in municipalities generally as well as the powers vested in the county by general or local law. When similar but not identical laws apply to counties and municipalities and a determination must be made as to which law applies, the county which is constituted as a consolidated government may elect which law to proceed under.

(c) When a county has become subject to this Code section, no municipal corporation may thereafter be created in or extend into the county."

SECTION 2.

This Act shall become effective on July 1, 2007.

SECTION 3.

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

Approved May 29, 2007.

COURTS – SOCIAL SERVICES – JUVENILE COURT HEARINGS; DEPRIVED CHILD; CHILDREN AND YOUTH SERVICES.

No. 325 (House Bill No. 153).

AN ACT

To amend Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile proceedings, so as to change certain provisions relating to hearings in juvenile court; to change provisions relating to disposition of a deprived child; to provide for certain requirements when changing placement of children who are in the custody of the Division of Family and Children Services; to provide for procedure; to amend Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to children and youth services, so as to provide new definitions and a cross-reference; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile proceedings, is amended by revising subsection (c) of Code Section 15-11-21, relating to associate juvenile court judges, appointment and compensation, qualifications, conduct of hearings, and rehearing, as follows:

"(c) In any case or class of cases involving alleged delinquent, unruly, or deprived children, the judge shall determine whether such case shall be conducted by the judge or by the associate juvenile court judge in the manner provided by this article."

SECTION 2.

Said article is further amended by revising Code Section 15-11-55, relating to the disposition of a deprived child, as follows:

"15-11-55.

(a) If the child is found to be a deprived child, the court may make any of the following orders of disposition best suited to the protection and physical, mental, and moral welfare of the child:

(1) Permit the child to remain with his or her parents, guardian, or other custodian, including a putative father, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child;

(2) Subject to conditions and limitations as the court prescribes, transfer temporary legal custody to any of the persons or entities described in this paragraph. Without limiting the generality of the foregoing, such conditions and limitations shall include a provision that the court shall approve or direct the retransfer of the physical custody of the child back to the parents, guardian, or other custodian either upon the occurrence of specified circumstances or in the discretion of the court. Any such retransfer of physical custody may be made subject to such further conditions and limitations as the court prescribes, including supervision for the protection of the child. The persons or entities to whom or which temporary legal custody may be transferred shall include the following:

(A) Any individual including a putative father who, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child;

(B) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child;

(C) Any public agency authorized by law to receive and provide care for the child; provided, however, that for the purpose of this Code section, the term 'public agency' shall not include the Department of Juvenile Justice; or

(D) An individual in another state with or without supervision by an appropriate officer under Code Section 15-11-89.

Except for dispositions pursuant to paragraph (1) of subsection (a) of Code Section 15-11-66 and Code Section 15-11-67, before transferring temporary legal custody in an order of disposition under this paragraph a reasonably diligent search for a parent or relative of the child or other persons who have demonstrated an ongoing commitment to the child shall be conducted by the court and the Department of Human Resources. Such search shall be completed within 90 days from the date on which the child was removed from the home, the results of such search documented in writing and filed with the court at the time of the first review. During such 90 day period, the child may be placed in the temporary legal custody of the Department of Human Resources or any other appropriate entity or person; or

(3) Without making any of the orders specified in paragraphs (1) and (2) of this subsection, transfer custody of the child to the court of another state exercising jurisdiction over children if authorized by and in accordance with Code Section 15-11-87 if the child is or is about to become a resident of that state.

(b) Unless a child found to be deprived is found also to be delinquent, such child shall not be committed to or confined in an institution or other facility designed or operated for the benefit of delinquent children.

(c) Notwithstanding any other provision of law, the court after transferring temporary legal custody of a child to the Division of Family and Children Services within the Department of Human Resources may at any time conduct sua sponte a judicial review of the current placement plan being provided to said child. After its review the court may order the division to comply with the current placement plan, order the division to devise a new placement plan within available division resources, or make any other order relative to placement or custody outside the Department of Human Resources as the court finds to be in the best interest of the child. Placement or a change of legal custody by the court outside the Department of Human Resources shall relieve the department of further responsibility for the child so placed.

(d) The policy of this state is that children in the custody of the Division of Family and Children Services should have stable placements. Not less than five days in advance of any placement change, the division shall notify the court, a child who is 14 years of age or older, the child's parents, guardian, or other custodian, and any attorney of record of such change in the location of the child's placement while the child is in the division's custody; provided, however, that if the child's health or welfare may be endangered by any delay in changing the child's placement, only the court and any attorney of record shall be notified of such placement change within 24 hours of such change. A child who is 14 years of age or older, the child's parents, guardian, or other custodian, and any attorney of record may request a hearing with regard to the child's case plan or the permanency plan in order for the court to consider the change in the location of the child's placement and any changes to the case plan or permanency plan resulting from the child's change in placement location. Such hearing shall be held within five days of receiving notice of a change in the location of the child's placement and prior to any such placement change, unless the child's health or welfare may be endangered by any delay in changing the child's placement. At the hearing to consider the child's case plan and permanency plan, the court shall consider the case plan and permanency plan recommendations made by the division, including a recommendation as to the location of the placement of the child, and shall make findings of fact upon which the court relied in determining to reject or accept the case plan or permanency plan and the recommendations made by the division, including the location of the child's placement. If the court rejects the recommendations of the division, the court shall demonstrate that the division's recommendations were considered and explain why it did not follow the recommendations. If the court rejects the division's case plan and permanency plan recommendations, including the change in the location of the placement of the child, the court may order the division to devise a new case plan and permanency plan recommendation, including a new recommendation as to the location of the child within the resources of the department, or make any other order relative to placement or custody outside the Department of Human Resources as the court finds to be in the best

interest of the child and consistent with this subsection. Placement or a change of legal custody by the court outside the Department of Human Resources shall relieve the department of further responsibility for the child so placed.

(e) A juvenile court shall not be required to make an order of disposition pursuant to this Code section regarding a child who is discharged from a facility in which the child was hospitalized or habilitated pursuant to Chapter 3, 4, or 7 of Title 37 unless the child is to be discharged into the physical custody of any person who had such custody when the court made its most recent finding that such child was deprived.

(f) If a child is found to be a deprived child and the deprivation is found to have been the result of alcohol or other drug abuse by a parent or guardian, as specified in subsection (b) of Code Section 15-11-54, and the court orders transfer of temporary legal custody of the child, as provided in paragraph (2) of subsection (a) of this Code section, the court is authorized to further order that legal custody of the child may not be transferred back to the child's custodian or guardian whose abuse of alcohol or another drug resulted in the child's deprivation unless such person undergoes substance abuse treatment and random substance abuse screenings and those screenings remain negative for a period of no less than six consecutive months."

SECTION 3.

Article 1 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to children and youth services, is amended by revising paragraph (12) of Code Section 49-5-3, relating to definitions, as follows:

"(12) 'Legal custody' means a legal status created by court order embodying the following rights and responsibilities:

(A) The right to have the physical possession of the child;

(B) The right and the duty to protect, train, and discipline the child;

(C) The responsibility to provide the child with food, clothing, shelter, education, and ordinary medical care; and

(D) The right to determine where and with whom the child shall live,

provided that these rights and responsibilities shall be exercised subject to the powers, rights, duties, and responsibilities of the guardian of the person of the child and subject to any residual parental rights and responsibilities. These rights shall be subject to judicial oversight and review pursuant to Code Section 15-11-55."

SECTION 4.

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

Approved May 29, 2007.

REVENUE – SALES TAX EXEMPTION; DONATIONS OF PREPARED FOOD AND BEVERAGES.

No. 326 (House Bill No. 169).

AN ACT

To amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use tax, so as to provide for exemptions for a certain period of time with respect to certain donations of prepared food and beverages; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the state revenue commissioner; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use tax, is amended by adding two new paragraphs to read as follows:

"(57.2)(A) For the period commencing July 1, 2007, and ending on June 30, 2009, the use of prepared food and beverages which are donated to a qualified nonprofit agency and which are used for hunger relief purposes.

(B) As used in this paragraph, the term 'qualified nonprofit agency' means any entity which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and which provides hunger relief.

(C) Any person making a donation of prepared food and beverages for the purpose specified in this paragraph shall remit the tax imposed thereon unless the person making use of such prepared food and beverages furnishes the person making the donation with an exemption determination letter issued by the commissioner certifying that the person making use of such food and beverages is entitled to use the prepared food and beverages without paying the tax.

(D) The commissioner is authorized to promulgate rules and regulations deemed necessary in order to administer and effectuate this paragraph;

(57.3)(A) For the period commencing July 1, 2007, and ending on June 30, 2009, the use of prepared food and beverages which are donated following a natural disaster and which are used for disaster relief purposes.

(B) The commissioner is authorized to promulgate rules and regulations deemed necessary in order to administer and effectuate this paragraph;"

SECTION 2.

This Act shall become effective on July 1, 2007.

SECTION 3.

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

Approved May 29, 2007.

CRIMINAL PROCEDURE – COURTS – JURY CHARGES; OBJECTIONS; THREE-JUDGE PANEL SENTENCE REVIEW.

No. 327 (House Bill No. 197).

AN ACT

To amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, so as to require parties to raise specific objections to jury charges prior to the jury retiring to deliberate; to provide that failure to raise objections shall preclude appellate review except under limited circumstances; to repeal provisions allowing review of sentences of imprisonment for a period exceeding 12 years by a three-judge panel; to provide for the disposition of cases currently under review or in the pipeline for review; to provide duties and responsibilities of the president of The Council of Superior Court Judges of Georgia with respect to abolishing the three-judge panel; to amend Code Section 15-6-77 of the Official Code of Georgia Annotated, relating to fees in superior court, so as to correct a cross-reference; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is amended by adding a new Code section to read as follows:

"17-8-58.

(a) Any party who objects to any portion of the charge to the jury or the failure to charge the jury shall inform the court of the specific objection and the grounds for such objection before the jury retires to deliberate. Such objections shall be done outside of the jury's hearing and presence.

(b) Failure to object in accordance with subsection (a) of this Code section shall preclude appellate review of such portion of the jury charge, unless such portion of the jury charge

constitutes plain error which affects substantial rights of the parties. Such plain error may be considered on appeal even if it was not brought to the court's attention as provided in subsection (a) of this Code section."

SECTION 2.

Said title is further amended by repealing and reserving Code Section 17-10-6, relating to review of sentences of imprisonment for a period exceeding 12 years by a three-judge panel, as follows:

"17-10-6.

Reserved."

SECTION 3.

Said title is further amended by adding a new Code section to read as follows:

"17-10-6.3.

(a) As used in this Code section, the term 'three-judge panel' means the three-judge panel that was created and existed pursuant to the former provisions of Code Section 17-10-6 as it existed on June 30, 2007, which reviewed certain sentences to determine if a sentence was excessively harsh and what relief, if any, should be given.

(b) The right of a defendant to have a sentence reviewed by a three-judge panel shall be terminated for sentences imposed by a trial or appellate court on or after July 1, 2007. No new application for review of a sentence shall be transmitted to the three-judge panel on or after July 1, 2007, except for cases in which a sentence was imposed prior to July 1, 2007.

(c) No new application for review of a sentence shall be accepted by the three-judge panel unless such application has been received by the three-judge panel on or before September 1, 2007. Any sentence that has an application for review with the three-judge panel pending on September 1, 2007, shall have such review completed by the three-judge panel by November 1, 2008.

(d) It shall be the duty of the president of The Council of Superior Court Judges of Georgia to cause all administrative measures which may be necessary to conclude the business of the three-judge panel to be completed no later than January 1, 2009. Such administrative, clerical, or secretarial personnel as may be assigned to provide support for the three-judge panel may continue to be employed for the purpose of providing support to the president of The Council of Superior Court Judges of Georgia until January 1, 2009.

(e) No later than January 1, 2009, all records and documents relating to the activities of the three-judge panels during the period July 1, 1974, through November 1, 2008, shall be transmitted to the Department of Archives and History for retention in accordance with Article 5 of Chapter 18 of Title 50, the 'Georgia Records Act.' All equipment, supplies, and materials which the president of The Council of Superior Court Judges of Georgia determines are excess or surplus shall be distributed by the president to the judges of the superior courts for use in the performance of their official duties. Any fees or expenses due

to any clerk, superior court judge, or other person as a result of the three-judge panel shall be paid out of such funds as are appropriated for the operation of the superior courts during fiscal year 2009."

SECTION 4.

Code Section 15-6-77 of the Official Code of Georgia Annotated, relating to superior court fees, is amended by revising paragraph (5) of subsection (h) as follows:

"(5) Reserved."

SECTION 5.

This Act shall become effective on July 1, 2007, and shall apply to all trials which occur on or after July 1, 2007.

SECTION 6.

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

Approved May 29, 2007.

COMMERCE – RETAIL INSTALLMENT CONTRACTS; DELINQUENCY CHARGES.

No. 328 (House Bill No. 240).

AN ACT

To amend Article 1 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to "The Retail Installment and Home Solicitation Sales Act," so as to increase the authorized maximum delinquency charge for late installment payments; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to "The Retail Installment and Home Solicitation Sales Act," is amended by revising subsection (a) of Code Section 10-1-7, relating to delinquency charges and other charges and fees, as follows:

"(a) A retail installment contract or a revolving account may provide for payment by the buyer of a delinquency charge on any installment which is not paid within ten days from the date the payment is due. The charge may not exceed $25.00. A delinquent charge shall

not be collected more than once for the same default. A retail installment contract or a revolving account may provide for the payment of reasonable attorneys' fees, if referred for collection to an attorney not a salaried employee of the retail seller, and for the payment of court costs."

SECTION 2.

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

Approved May 29, 2007.

REVENUE – HOMESTEAD OPTION SALES TAX; QUALIFIED MUNICIPALITIES; FUNDS DISTRIBUTION.

No. 329 (House Bill No. 264).

AN ACT

To amend Article 2A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the homestead option sales and use tax, so as to change the manner and method of disbursing the proceeds of such tax; to provide for definitions; to provide for legislative intent; to provide for procedures, conditions, and limitations; to provide for powers and duties of the state revenue commissioner; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the homestead option sales and use tax, is amended by revising Code Section 48-8-101, relating to definitions, to read as follows:

"48-8-101.

As used in this article, the term:

(1) 'Ad valorem taxes for county purposes' means any and all ad valorem taxes for county maintenance and operation purposes levied by, for, or on behalf of the county, excluding taxes to retire general obligation bonded indebtedness of the county.

(2) 'Existing municipality' means a municipality created prior to January 1, 2007, lying wholly within or partially within a county.

(3) 'Homestead' means homestead as defined and qualified in Code Section 48-5-40, with the additional qualification that it shall include only the primary residence and not more than five contiguous acres of land immediately surrounding such residence.

(4) 'Qualified municipality' means a municipality created on or after January 1, 2007, lying wholly within or partially within a county."

SECTION 2.

Said article is further amended by adding a new Code section to read as follows:

"48-8-101.1.

It is the intent of the General Assembly that the proceeds of the homestead option sales and use tax be distributed equitably to the counties and qualified municipalities such that the residents of a new incorporated municipality will continue to receive a benefit from that tax substantially equal to the benefit they would have received if the area covered by the municipality had not incorporated. The provisions of this article shall be liberally construed to effectuate such intent."

SECTION 3.

Said article is further amended by revising Code Section 48-8-104, relating to administration and disbursement of homestead option sales and use tax proceeds, as follows:

"48-8-104.

(a) The sales and use tax levied pursuant to this article shall be exclusively administered and collected by the commissioner for the use and benefit of each county whose geographical boundary is conterminous with that of a special district. Such administration and collection shall be accomplished in the same manner and subject to the same applicable provisions, procedures, and penalties provided in Article 1 of this chapter; provided, however, that all moneys collected from each taxpayer by the commissioner shall be applied first to such taxpayer's liability for taxes owed the state. Dealers shall be allowed a percentage of the amount of the sales and use tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if such amount is not delinquent at the time of payment. The deduction shall be at the rate and subject to the requirements specified under subsections (b) through (f) of Code Section 48-8-50.

(b) Each sales and use tax return remitting sales and use taxes collected under this article shall separately identify the location of each retail establishment at which any of the sales and use taxes remitted were collected and shall specify the amount of sales and the amount of taxes collected at each establishment for the period covered by the return in order to facilitate the determination by the commissioner that all sales and use taxes imposed by this article are collected and distributed according to situs of sale.

(c) The proceeds of the sales and use tax collected by the commissioner in each special district under this article shall be disbursed as soon as practicable after collection as follows:

(1) One percent of the amount collected shall be paid into the general fund of the state treasury in order to defray the costs of administration;

(2) Except for the percentage provided in paragraph (1) of this subsection and the amount determined under subsections (d) and (e) of this Code section, the remaining proceeds of the sales and use tax shall be distributed to the governing authority of the county whose geographical boundary is conterminous with that of the special district; provided, however, that a county and any qualified municipality shall be authorized by intergovernmental agreement to waive the equalization amount otherwise required under subsections (d) and (e) of this Code section and provide for a different distribution amount. In the event of such waiver, except for the percentage provided in paragraph (1) of this subsection, the remaining proceeds of the sales and use tax shall be distributed to the governing authority of the county whose geographical boundary is conterminous with that of the special district. As a condition precedent for the authority to levy the sales and use tax or to collect any proceeds from the tax authorized by this article for the year following the first complete calendar year in which it is levied and for all subsequent years except the year following the year in which the sales and use tax is terminated under Code Section 48-8-106, the county whose geographical boundary is conterminous with that of the special district shall, except as otherwise provided in subsection (c) of Code Section 48-8-102, expend such proceeds as follows:

(A) A portion of such proceeds shall be expended for the purpose of funding capital outlay projects as follows:

(i) The governing authority of the county whose geographical boundary is conterminous with that of the special district shall establish the capital factor which shall not exceed .200 and, for a county in which a qualified municipality is located, shall not be less than the level required by subsection (d) of this Code section; therefore, at a minimum, the county shall set the capital factor at a level that yields an amount of capital outlay proceeds that is equal to or greater than the sum of all equalization amounts due qualified municipalities and existing municipalities under subsection (e) of this Code section; and

(ii) Capital outlay projects shall be funded in an amount equal to the product of the capital factor multiplied by the net amount of the sales and use tax proceeds collected under this article during the previous calendar year, and this amount shall be referred to as capital outlay proceeds in subsections (d) and (e) of this Code section;

(B) A portion of such proceeds shall be expended for the purpose of funding services within the special district equal to the revenue lost to the homestead exemption as provided in this Code section as follows:

(i) The homestead factor shall be calculated by multiplying the quantity 1.000 minus the capital factor times an amount equal to the net amount of sales and use tax collected in the special district pursuant to this article for the previous calendar year, and then dividing by the taxes levied for county purposes on only that portion of the county tax digest that represents net assessments on qualified homestead property

after all other homestead exemptions have been applied, rounding the result to three decimal places;

(ii) If the homestead factor is less than or equal to 1.000, the amount of homestead exemption created under this article on qualified homestead property shall be equal to the product of the homestead factor multiplied times the net assessment of each qualified homestead remaining after all other homestead exemptions have been applied; and

(iii) If the homestead factor is greater than 1.000, the homestead exemption created by this article on qualified homestead property shall be equal to the net assessment of each homestead remaining after all other homestead exemptions have been applied; and

(C) If any of such proceeds remain following the distribution provided for in subparagraphs (A) and (B) of this paragraph and subsections (d) and (e) of this Code section:

(i) The millage rate levied for county purposes shall be rolled back in an amount equal to such excess divided by the net taxable digest for county purposes after deducting all homestead exemptions including the exemption under this article; and

(ii) In the event the rollback created by division (i) of this subparagraph exceeds the millage rate for county purposes, the governing authority of the county whose boundary is conterminous with the special district shall be authorized to expend the surplus funds for funding all or any portion of those services which are to be provided by such governing authorities pursuant to and in accordance with Article IX, Section II, Paragraph III of the Constitution of this state.

(d)(1) The commissioner shall distribute to the governing authority of each qualified municipality located in the special district a share of the capital outlay proceeds calculated as provided in this subsection and subsection (e) of this Code section which proceeds shall be expended for the purpose of funding capital outlay projects of such municipality.

(2) Both the tax commissioner and the governing authority for the county in which a qualified municipality is located shall cooperate with and assist the commissioner in the calculation of the equalization amounts under subsection (e) of this Code section and shall, on or before July 1 of each year, provide to the commissioner and the governing authority of each qualified municipality written certification of the following:

(A) The capital factor set by the county for the current calendar year; provided, however, that the capital factor may not exceed 0.200;

(B) The total amount, if any, due to be paid to existing municipalities from the capital outlay proceeds as required by any intergovernmental agreement between the county and such municipalities;

(C) The incorporated county millage rate in each qualified municipality;

(D) The net homestead digest for each qualified municipality;

(E) The total homestead digest; and

(F) The unincorporated county millage rate.

If the tax commissioner and the governing authority of the county fail to provide such certification on or before July 1, the commissioner shall not distribute to such county any additional proceeds of the sales and use tax collected after July 1 unless and until such certification is provided.

(3) The commissioner shall then calculate the equalization amount due each qualified municipality based on the certifications provided by the tax commissioner and the governing authority of the county and pay such amount to the governing authority of each qualified municipality in six equal monthly payments as soon as practicable during or after each of the last six months of the current calendar year. In the event an existing municipality that has entered into an intergovernmental agreement with a county at any time before January 1, 2007, to receive capital outlay proceeds of the homestead option sales and use tax and such intergovernmental agreement has become or does become null and void for any reason, such existing municipality shall be treated under this article the same as if it were a qualified municipality as defined in paragraph (4) of Code Section 48-8-101and therefore receive payment of equalization amounts under this article as provided for under this article. The commissioner shall distribute to the governing authority of the county each month the net sales and use tax remaining after payment of equalization amounts to the qualified municipalities.

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

(A) 'Equalization amount' means for a qualified municipality the product of the equalization millage times the net homestead digest for that qualified municipality.

(B) 'Equalization millage' means for each qualified municipality the product of the homestead factor calculated pursuant to division (c)(2)(B)(i) of this Code section times the difference between the unincorporated county millage rate and the incorporated county millage rate for that qualified municipality.

(C) 'Incorporated county millage rate' means the millage rate for all ad valorem taxes for county purposes levied by the county in each of the qualified municipalities in the county.

(D) 'Net homestead digest' means for each qualified municipality the total net assessed value of all qualified homestead property located in that portion of the qualified municipality located in the county remaining after all other homestead exemptions are applied.

(E) 'Total homestead digest' means the total net assessed value of all qualified homestead property located in the county remaining after all other homestead exemptions are applied.

(F) 'Unincorporated county millage rate' means the millage rate for all ad valorem taxes for county purposes levied by the county in the unincorporated areas of the county.

(2) For illustration purposes, a hypothetical example of the calculation of the equalization amount is provided below.

First, calculate the homestead factor in accordance with division (c)(2)(B)(i) of this Code section as follows:

(A) Capital factor certified by county as required by subsection (d) of this Code section	0.150
(B) Net amount of sales and use tax collected in the special district pursuant to this article for the previous calendar year	$ 50 million
(C) Taxes levied for county purposes on only that portion of the county tax digest that represents net assessments on qualified homestead property after all other homestead exemptions have been applied	$100 million
(D) Calculation of homestead factor using figures above = [(1-.0150)($50 million/$100 million)]	.425

Next, calculate the equalization amount in accordance with paragraph (1) of this subsection as follows:

(E) Unincorporated county millage rate	15.0 mills
(F) Minus the incorporated county millage rate for qualified municipality 'Y'	(10.0 mills)
Difference:	= 5.0 mills
(G) Times homestead factor (calculated above)	x .425
(H) Equals the equalization millage:	= 2.125 mills
(I) Times net homestead digest for qualified municipality 'Y'	$200 million
(J) Equals the equalization amount payable to municipality 'Y'	$ 425,000.00

(3) In the event the total amount payable in a calendar year to all existing municipalities as certified by the county pursuant to subparagraph (d)(2)(B) of this Code section plus the total equalization amount payable to all qualified municipalities in the special district exceeds the capital outlay proceeds calculated based on a maximum capital factor of 0.200, the commissioner shall pay to the governing authority of each qualified municipality a share of such proceeds calculated as follows:

(A) Determine the capital outlay proceeds based on a maximum capital factor of 0.200;

(B) Subtract the amount certified by the county as payable to existing municipalities pursuant to subparagraph (d)(2)(B) of this Code section;

(C) The remaining amount equals the portion of the capital outlay proceeds that may be used by the commissioner to pay equalization amounts to qualified municipalities.

The commissioner shall calculate each qualified municipality's share of such remaining amount by dividing the net homestead digest for each qualified municipality by the total homestead digest for all municipalities.

(4) In the event the incorporated county millage rate for a qualified municipality is greater than the unincorporated county millage rate, no payment shall be due from the governing authority of the qualified municipality to the governing authority of the county.

(5) In the event the amount of capital outlay proceeds exceeds the sum of the equalization amounts due all qualified municipalities plus the total amount certified under subparagraph (d)(2)(B) of this Code section as due all existing municipalities, the commissioner shall distribute to each qualified municipality a portion of such excess equal to the net homestead digest for such municipality divided by the total homestead digest.

(6) If any qualified municipality is located partially in the county then only that portion so located shall be considered in the calculations contained in this subsection."

SECTION 4.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 5.

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

Approved May 29, 2007.

REVENUE – SALES TAX EXEMPTION;
AIRCRAFT REPAIR.

No. 330 (House Bill No. 282).

AN ACT

To amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use tax, so as to provide for an exemption for a limited period of time regarding the sale or use of engines, parts, equipment, or other tangible personal

property used in the maintenance or repair of certain aircraft; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use tax, is amended by replacing "; or" with a semicolon at the end of paragraph (84); by replacing the period at the end of paragraph (85) with "; or"; and by adding a new paragraph to read as follows:

"(86) For the period commencing on July 1, 2007, and ending on June 30, 2009, the sale or use of engines, parts, equipment, and other tangible personal property used in the maintenance or repair of aircraft when such engines, parts, equipment, and other tangible personal property are installed on such aircraft that is being repaired or maintained in this state so long as such aircraft is not registered in this state."

SECTION 2.

This Act shall become effective on July 1, 2007.

SECTION 3.

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

Approved May 29, 2007.

CRIMES – CONTROLLED SUBSTANCES; DANGEROUS DRUGS.

No. 331 (House Bill No. 286).

AN ACT

To amend Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled substances, so as to change certain provisions relating to Schedule II controlled substances; to change certain provisions relating to Schedule V controlled substances; to change certain provisions relating to the definition of "dangerous drug"; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled substances, is amended in Code Section 16-13-26, related to Schedule II controlled substances, by striking in its entirety subparagraph (G) of paragraph (3) which reads as follows:

"(G) Dimethylamphetamine;"

SECTION 2.

Said chapter is further amended in Code Section 16-13-29, relating to Schedule V controlled substances, by revising paragraph (3) as follows:

"(3) Pregabalin; or"

SECTION 3.

Said chapter is further amended in Code Section 16-13-71, relating to the definition of dangerous drug, by revising paragraphs (509.18), (517.5), and (772.5) in subsection (b) as follows:

"(509.18) Ketotifen – See exceptions;"

SECTION 4.

Said chapter is further amended in Code Section 16-13-71, relating to the definition of dangerous drug, by adding new paragraphs to subsection (b) to read as follows:

"(.037) Abatacept;"
"(19.75) Alglucosidase alfa;"
"(52.5) Anidulafungin;"
"(62.75) Arformoterol tartrate;"
"(101.5) Biskalcitrate;"
"(192.02) Ciclesonide;"
"(213.3) Conivaptan;"
"(240.7) Darunavir;"
"(240.9) Dasatinib;"
"(243.3) Decitabine;"
"(379.09) Etonogestrel;"
"(464.5) Idursulfase;"
"(530.7) Lubiprostone;"
"(681.45) Paliperidone;"
"(685.6) Panitumumab;"
"(752.7) Posaconazole;"
"(831.07) Ranibizumab;"
"(831.3) Ranolazine;"
"(831.7) Rasagiline;"
"(843.82) Rituximab;"

"(845.9) Rotavirus vaccine;"
"(858.3) Sinecatechins;"
"(858.7) Sitagliptin;"
"(882.5) Sorafenib;"
"(927.7) Sunitinib;"
"(931.56) Telbivudine;"
"(1025.7) Varenicline;"
"(1037.7) Vorinostat;"

SECTION 5.

Said chapter is further amended in Code Section 16-13-71, relating to the definition of dangerous drug, by adding a new paragraph to subsection (c) as follows:

"(12.7) Ketotifen – when used with a strength of 0.025 percent or less in an ophthalmic soultion;"

SECTION 6.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 7.

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

Approved May 29, 2007.

PUBLIC UTILITIES; MOTOR CONTRACT OR MOTOR COMMON CARRIERS; DEFINITION.

No. 332 (House Bill No. 317).

AN ACT

To amend Code Section 46-1-1 of the Official Code of Georgia Annotated, relating to definitions and exclusions for Title 46, so as to change the definition of motor contract carrier or motor common carrier; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 46-1-1 of the Official Code of Georgia Annotated, relating to definitions and exclusions for Title 46, is amended by revising division (9)(C)(ii) as follows:

"(ii) Taxicabs, drays, trucks, buses, and other motor vehicles which operate within the corporate limits of municipalities and are subject to regulation by the governing authorities of such municipalities. This exception shall apply to such vehicles even though such vehicles may, in the prosecution of their regular business, occasionally go beyond the corporate limits of such municipalities. Such exception shall not include such vehicles engaged in the moving of household goods nor include passenger vans (I) having a capacity of ten persons or more, (II) conducting nonmetered transportation service and not operated by a municipality or municipal, county, or regional governmental authority, and (III) which are engaged in private for-hire transportation operating between points within the corporate limits of a municipality. Pursuant to Code Section 44-1-13, all tow trucks engaged in nonconsensual towing operations between points within the corporate limits of a municipality shall remain subject to the jurisdiction of the commission and the municipality within which such nonconsensual towing operations are conducted;"

SECTION 2.

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

Approved May 29, 2007.

REVENUE – CONSERVATION USE; ELIGIBILITY; FAMILY OWNED FARM ENTITIES.

No. 333 (House Bill No. 321).

AN ACT

To amend Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to bona fide conservation use property, so as to change certain eligibility requirements with respect to conservation use assessment; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to bona fide conservation use property, is amended by revising paragraph (1) of subsection (a) as follows:

"(1) Not more than 2,000 acres of tangible real property of a single person, the primary purpose of which is any good faith production, including but not limited to subsistence farming or commercial production, from or on the land of agricultural products or timber, subject to the following qualifications:

(A) Such property includes the value of tangible property permanently affixed to the real property which is directly connected to such owner's production of agricultural products or timber and which is devoted to the storage and processing of such agricultural products or timber from or on such real property;

(A.1) In the application of the limitation contained in the introductory language of this paragraph, the following rules shall apply to determine beneficial interests in bona fide conservation use property held in a family owned farm entity as described in division (1)(C)(iv) of this subsection:

(i) A person who owns an interest in a family owned farm entity as described in division (1)(C)(iv) of this subsection shall be considered to own only the percent of the bona fide conservation use property held by such family owned farm entity that is equal to the percent interest owned by such person in such family owned farm entity; and

(ii) A person who owns an interest in a family owned farm entity as described in division (1)(C)(iv) of this subsection may elect to allocate the lesser of any unused portion of such person's 2,000 acre limitation or the product of such person's percent interest in the family owned farm entity times the total number of acres owned by the family owned farm entity subject to such bona fide conservation use assessment, with the result that the family owned farm entity may receive bona fide conservation use assessment on more than 2,000 acres;

(B) Such property excludes the entire value of any residence located on the property;

(C) Except as otherwise provided in division (vii) of this subparagraph, such property must be owned by:

(i) One or more natural or naturalized citizens;

(ii) An estate of which the devisees or heirs are one or more natural or naturalized citizens;

(iii) A trust of which the beneficiaries are one or more natural or naturalized citizens;

(iv) A family owned farm entity, such as a family corporation, a family partnership, a family general partnership, a family limited partnership, a family limited corporation, or a family limited liability company, all of the interest of which is owned by one or more natural or naturalized citizens related to each other by blood or marriage within the fourth degree of civil reckoning, except that, solely with respect to a family limited partnership, a corporation, limited partnership, limited corporation, or limited liability company may serve as a general partner of the family limited partnership and hold no more than a 5 percent interest in such family limited partnership, an estate of which the devisees or heirs are one or more natural or naturalized citizens, or a trust of which the beneficiaries are one or more natural or

naturalized citizens and which family owned farm entity derived 80 percent or more of its gross income from bona fide conservation uses, including earnings on investments directly related to past or future bona fide conservation uses, within this state within the year immediately preceding the year in which eligibility is sought; provided, however, that in the case of a newly formed family farm entity, an estimate of the income of such entity may be used to determine its eligibility;

(v) A bona fide nonprofit conservation organization designated under Section 501(c)(3) of the Internal Revenue Code;

(vi) A bona fide club organized for pleasure, recreation, and other nonprofitable purposes pursuant to Section 501(c)(7) of the Internal Revenue Code; or

(vii) In the case of constructed storm-water wetlands, any person may own such property;

(D) Factors which may be considered in determining if such property is qualified may include, but not be limited to:

(i) The nature of the terrain;

(ii) The density of the marketable product on the land;

(iii) The past usage of the land;

(iv) The economic merchantability of the agricultural product; and

(v) The utilization or nonutilization of recognized care, cultivation, harvesting, and like practices applicable to the product involved and any implemented plans thereof; and

(E) Such property shall, if otherwise qualified, include, but not be limited to, property used for:

(i) Raising, harvesting, or storing crops;

(ii) Feeding, breeding, or managing livestock or poultry;

(iii) Producing plants, trees, fowl, or animals, including without limitation the production of fish or wildlife by maintaining not less than ten acres of wildlife habitat either in its natural state or under management, which shall be deemed a type of agriculture; provided, however, that no form of commercial fishing or fish production shall be considered a type of agriculture; or

(iv) Production of aquaculture, horticulture, floriculture, forestry, dairy, livestock, poultry, and apiarian products; or"

SECTION 2.

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

Approved May 29, 2007.

PROPERTY – CONDOMINIUMS;
EXTENSIVE REVISION.

No. 334 (House Bill No. 383).

AN ACT

To amend Article 3 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated, the "Georgia Condominium Act," so as to define certain terms; to provide that a declarant shall pay certain expenses; to provide for exceptions; to provide for an exception for a certain obligation to provide a certificate of occupancy; to provide for the effect on land use and zoning ordinances or laws of an expandable condominium; to provide for the creation of a subcondominium; to provide for a subassociation; to provide for insurance; to provide for the effect of certain liens; to provide for eminent domain; to provide for the description of certain units; to provide for assessments; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 3 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated, the "Georgia Condominium Act," is amended in Code Section 44-3-71, relating to definitions, by adding new paragraphs to read as follows:

"(19.1) 'Master association' means an association of a master condominium.

(19.2) 'Master condominium' means a condominium in which the condominium instruments permit one or more of the units to constitute a subcondominium."

"(26.1) 'Subassociation' means an association of a subcondominium.

(26.2) 'Subcondominium' means the property consisting of a unit of an existing condominium lawfully submitted under this article by the recordation of separate condominium instruments pursuant to this article."

"(27.1) 'Subunit' means a unit that constitutes a portion of a subcondominium."

SECTION 2.

Said article is further amended in Code Section 44-3-80, relating to allocation and liability for common expenses and how assessments are made, by revising subsection (d) as follows:

"(d)(1) The declarant shall pay for all common expenses until the first common expense assessment is due from any unit owner. Thereafter, no unit owner other than the association shall be exempted from any liability for any assessment under this Code section or under any condominium instrument for any reason whatsoever, including, without limitation, abandonment, nonuse, or waiver of the use or enjoyment of his or her unit or any part of the common elements.

(2) Notwithstanding paragraph (1) of this subsection, if authorized by the declaration, a declarant who is offering units for sale may elect to be excused from payment of assessments assessed pursuant to subsection (c) of this Code section against those unsold and unoccupied units for a stated period of time after the original declaration is recorded, not to exceed 24 months after the date the original declaration is recorded; provided, however, that as to assessments assessed pursuant to subsection (c) of this Code section, the declarant must pay common expenses incurred during such period which exceed the amounts assessed against other unit owners in the same condominium. During any period in which the declarant is excused from payment of assessments assessed pursuant to subsection (c) of this Code section:

(A) No capital contributions, start-up funds, initiation fees, or contributions to capital reserve accounts which are receivable from unit purchasers or unit owners and payable to the association at closing may be used for payment of common expenses;

(B) No portion of the payment of assessments collected from owners intended to be utilized for reserves for deferred maintenance, reserves for depreciation, or other reserves, as shown on the operating budget for the condominium, may be used for payment of common expenses; and

(C) No prepayments of assessments made by owners shall be used for the payment of common expenses prior to the time the assessments would otherwise be due.

(3) If during the period that the declarant is excused from payment of assessments as provided in paragraph (2) of this subsection common expenses are incurred resulting from a casualty which is not covered by proceeds from insurance maintained by the association, such common expenses shall be assessed against all unit owners owning units on the date of such casualty, and their respective successors and assigns, including the declarant with respect to units owned by the declarant. In the event of such an assessment, all units shall be assessed in accordance with the allocation of the liability for common expenses set forth in the declaration as provided in subsection (c) of this Code section.

(4) During any such time as the declarant has the right to control the association pursuant to Code Section 44-3-101, any capital contributions, start-up funds, initiation fees, or contributions to capital reserve accounts which are receivable from unit purchasers or unit owners and payable to the association at closing and any portion of the payment of assessments collected from owners intended to be utilized for reserves for deferred maintenance, reserves for depreciation, or other reserves, as shown on the operating budget for the condominium, shall be deposited into one or more separate reserve accounts and shall not be used to pay for any common expenses, without the agreement of the unit owners of units to which two-thirds of the votes in the association pertain, exclusive of any vote or votes appurtenant to any unit or units then owned by the declarant. No waiver of the right of any unit owner to grant or withhold consent to such agreement shall be valid."

SECTION 3.

Said article is further amended by revising paragraph (5) of subsection (e) of Code Section 44-3-111, relating to sales of residential condominium units for residential occupancy, information required to be furnished by seller, buyer's right to void contract, limitations period, attorney's fees, and penalty for willful violation, as follows:

"(5) If, but only if, any applicable statute, ordinance, rule, or regulation requires, permits, or provides for the issuance of a certificate of occupancy by any officer, department, or agency of any governmental entity, the contract shall contain an express obligation on the part of the seller to furnish to the buyer at or prior to closing a true, correct, and complete copy of a duly issued certificate of occupancy covering the unit which is the subject matter of the covered contract unless the buyer executes a separate agreement at or before closing setting forth that the contract applies to a condominium unit for which the seller is not obligated to obtain a certificate of occupancy before conveyance of the unit to the buyer and such agreement contains the following statement in at least 14-point boldface type or capital letters:

'THE SELLER IS NOT OBLIGATED TO OBTAIN A CERTIFICATE OF OCCUPANCY BEFORE CONVEYANCE OF THE UNIT TO THE BUYER. THE LACK OF A CERTIFICATE OF OCCUPANCY SHALL NOT EXCUSE THE BUYER FROM ANY OBLIGATION TO PAY ASSESSMENTS TO THE ASSOCIATION.'; and"

SECTION 4.

Said article is further amended in Code Section 44-3-114, relating to the effect of such article upon land use, zoning, building, and subdivision laws and the effect of a certain Code section, by adding a new subsection to read as follows:

"(c) No subdivision law, ordinance, or regulation shall apply to the additional property of an expandable condominium for so long as the additional property may be added to the expandable condominium in accordance with the provisions of this article and the declaration. If the additional property is not deemed separate from the submitted property under any zoning, land use, subdivision, building, or life safety law, code, regulation, or ordinance at the time of the establishment of the condominium, the additional property shall not be deemed separate from the submitted property under any zoning, land use, subdivision, building, or life safety law, code, regulation, or ordinance so long as the additional property may be added by the declarant to the expandable condominium in accordance with the provisions of this article and the declaration."

SECTION 5.

Said article is further amended by adding a new Code section to read as follows:

"44-3-117.

(a) Except as otherwise set forth in this Code section, the creation of a subcondominium shall not limit the application of this article in its entirety to such subcondominium.

(b) To the extent permitted in the condominium instruments, a condominium unit may be submitted by the owner thereof to a subcondominium and such owner shall thereafter be deemed the declarant, as such term is defined in paragraph (13) of Code Section 44-3-71, of such subcondominium.

(c) Upon the creation of a subcondominium:

(1) No tax or governmental assessment shall be levied against the unit as a whole but instead shall only be levied on the subunits;

(2) The subassociation shall represent and be responsible for acting on behalf of the subunit owners in discharging the rights and obligations of the unit owner as a member of the master association, including, without limitation, voting the interests of the unit in the master association and paying assessments owing on the unit to the master association;

(3) The insurance required in paragraph (1) of Code Section 44-3-107 may be obtained by either the subassociation or the master association for the condominium in which the subcondominium is a unit;

(4) No lien for labor or services performed or materials furnished in the improvement of the unit shall be filed against the subcondominium as a whole but shall only be filed against the subunits, and such lien may be discharged by the owner of any subunit in the same manner provided in subsection (d) of Code Section 44-3-95;

(5) If a subassociation has been created for property affected by an eminent domain proceeding, no eminent domain action shall be brought against the subassociation as a whole but only against the subunit owners thereof; and

(6) No description of a subunit shall be deemed to be vague, uncertain or otherwise insufficient if the description complies with Code Section 44-3-73.

(d) The description of submitted property or additional property to a subcondominium required by this article shall be valid if described by a legal description by metes and bounds or by a description of a unit in a master condominium in the manner provided for in Code Section 44-3-73.

(e) All sums lawfully assessed by a master association against a subassociation shall have the same effect as provided in subsection (a) of Code Section 44-3-109.

The recording of the declaration for a subcondominium pursuant to this article shall constitute record notice of the existence of the lien, and no further recordation of any claim of lien for assessments shall be required.

(f) In the event any lien becomes effective against a subunit as provided in subsection (e) of this Code section, the subassociation may remove that lien from the subunits by:

(1) The payment of the amount attributable to the subunits, or

(2) Bonding of the amount assessed against the subassociation

or any subunit owner may remove that lien from his or her subunit by the payment of the amount attributable to his or her subunit. The amount shall be computed by reference to the liability for common expenses pertaining to that condominium unit pursuant to subsection (c) of Code Section 44-3-80. Subsequent to the payment, discharge, or other

satisfaction of such amount, the subunit owner of that subunit shall be entitled to have that lien released as to his or her subunit in accordance with applicable provisions of law, and notwithstanding anything to the contrary in Code Sections 44-3-80 and 44-3-109, the master association shall not assess or have a valid lien against that subunit for any portion of the common expenses incurred by the master association in connection with that lien.

(g) Not less than 30 days after notice is sent by certified mail or statutory overnight delivery, return receipt requested, to the subunit owner both at the address of the subunit and at any other address or addresses which the subunit owner may have designated to the master association in writing, the lien of the master association may be foreclosed by the master association by an action, judgment, and foreclosure in the same manner as other liens for the improvement of real property, subject to superior liens or encumbrances, but any such court order for judicial foreclosure shall not affect the rights of holders of superior liens or encumbrances to exercise any rights or powers afforded to them under their security instruments. The notice provided for in this subsection shall specify the amount of the assessments then due and payable together with authorized late charges and the rate of interest accruing thereon. No foreclosure action against a lien arising out of this subsection shall be permitted unless the amount of the lien is at least $2,000.00. Unless prohibited by the master condominium instruments, the master association shall have the power to bid on the subunit at any foreclosure sale and to acquire, hold, lease, encumber, and convey the same. The lien for assessments shall lapse and be of no further effect, as to assessments or installments thereof, together with late charges and interest applicable thereto, four years after the assessment or installment first became due and payable.

(h) Any subunit owner, mortgagee of a subunit, person having executed a contract for the purchase of a subunit, or lender considering the loan of funds to be secured by a subunit shall be entitled upon request to a statement from the subassociation or its management agent setting forth the amount of assessments past due and unpaid together with late charges and interest applicable owed by the subassociation to the master association. If the subassociation or its management agent states an amount less than the amount actually owed by the subassociation to the master association, the lien created by Code Section 44-3-109 for any amounts in excess of the stated amount shall be subordinate to the lien of any first priority mortgage covering the subunit.

(i) In addition to the documents required to be furnished to the prospective buyer under subsection (b) of Code Section 44-3-111, if the covered contract applies to a condominium unit which is part of a subcondominium, the following shall be provided to the prospective buyer:

(1) A copy of the declaration for the master condominium, and a copy of each amendment thereto; and

(2) A copy of the articles of incorporation and bylaws of the master association, and of each amendment to either."

SECTION 6.

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

Approved May 29, 2007.

LABOR – FARM LABORER; CLAIM DISMISSAL; EXAMINATIONS; DISABILITY BENEFITS.

No. 335 (House Bill No. 424).

AN ACT

To amend Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers' compensation, so as to provide a definition for the term "farm laborer"; to provide for the applicability of Chapter 9 of Title 34; to provide for the dismissal of certain claims in which no hearing has been held after a certain time period; to extend the period of time in which the employer has to select a rehabilitation supplier; to specify that examinations of the employee may include physical, psychiatric, and psychological examinations; to provide that charges for prescriptions and charges for other items and services shall be subject to the approval of the State Board of Workers' Compensation; to increase the weekly wage amounts for compensation for total disability; to increase the maximum weekly benefit for compensation for temporary partial disability; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers' compensation, is amended by revising subsection (a) of Code Section 34-9-2, relating to the applicability of the chapter to employers and employees, as follows:

"(a)(1) As used in this subsection, the term 'farm laborer' shall include, without limitation, any person employed by an employer in connection with the raising and feeding of and caring for wildlife, as such term is defined in paragraph (77) of Code Section 27-1-2.

(2) This chapter shall not apply to common carriers by railroad engaged in intrastate trade or commerce; nor shall this chapter be construed to lessen the liability of such common carriers or take away or diminish any right that any employee of such common carrier or, in case of his or her death, the personal representative of such employee may have under the laws of this state; nor shall this chapter apply to employees whose

employment is not in the usual course of trade, business, occupation, or profession of the employer or not incidental thereto; nor to farm laborers or domestic servants; nor to employers of such employees; nor to any person, firm, or private corporation, including any public service corporation, that has regularly in service less than three employees in the same business within this state, unless such employees and their employers voluntarily elect to be bound; nor to any person performing services as a licensed real estate salesperson or associate broker who has a written contract of employment providing that he or she shall perform all services as an independent contractor."

SECTION 2.

Said chapter is further amended by revising Code Section 34-9-100, relating to the filing of claims with the State Board of Workers' Compensation and the dismissal of stale claims, as follows:

"34-9-100.

(a) Subject to Code Section 34-9-82, a claim for compensation may be filed with the board at any time following an injury or death. The board and its administrative law judges shall have full authority to hear and determine all questions with respect to such claims.

(b) The board shall make or cause to be made any investigation or mediation it considers necessary and, upon its own motion or application of any interested party, order a hearing thereon and assign the claim to an administrative law judge for review. Furthermore, the board may direct the parties to participate in mediation conducted under the supervision and guidance of the board.

(c) Any application for hearing filed with the board pursuant to this Code section, on or after July 1, 1985, but prior to July 1, 2007, for which no hearing is conducted for a period of five years shall automatically stand dismissed.

(d)(1) For injuries occurring on or after July 1, 2007, any claim filed with the board for which neither medical nor income benefits have been paid shall stand dismissed with prejudice by operation of law if no hearing has been held within five years of the alleged date of injury.

(2) This subsection shall not apply to a claim for an occupational disease as defined in Code Section 34-9-280.

(3) The form provided by the board for use in filing a workers' compensation claim shall include notice of the provisions of this subsection.

(e) Any claim, notice, or appeal required by this chapter to be filed with the board shall be deemed filed on the earlier of:

(1) The date such claim or notice is actually received by the board; or

(2) The official postmark date such claim or notice was mailed to the board, properly addressed with postage prepaid, by registered or certified mail or statutory overnight delivery."

SECTION 3.

Said chapter is further amended by revising subsection (a) of Code Section 34-9-200.1, relating to rehabilitation benefits and rehabilitation suppliers, as follows:

"(a) In the event of a catastrophic injury, the employer shall furnish the employee entitled to benefits under this chapter with reasonable and necessary rehabilitation services. The employer either shall appoint a registered rehabilitation supplier or give reasons why rehabilitation is not necessary within 48 hours of the employer's acceptance of the injury as compensable or notification of a final determination of compensability, whichever occurs later. If it is determined that rehabilitation is required under this Code section, the employer shall have a period of 20 days from the date of notification of that determination within which to select a rehabilitation supplier. If the employer fails to select a rehabilitation supplier within such time period, a rehabilitation supplier shall be appointed by the board to provide services at the expense of the employer. The rehabilitation supplier appointed to a catastrophic injury case shall have the expertise which, in the judgment of the board, is necessary to provide rehabilitation services in such case."

SECTION 4.

Said chapter is further amended by revising subsections (a) and (e) of Code Section 34-9-202, relating to an examination of an injured employee, as follows:

"(a) After an injury and as long as he claims compensation, the employee, if so requested by his or her employer, shall submit himself or herself to examination, at reasonable times and places, by a duly qualified physician or surgeon designated and paid by the employer or the board. Such examination may include physical, psychiatric, and psychological examinations."

"(e) Notwithstanding the rights afforded an employee under Code Section 34-9-201, the employee, after an accepted compensable injury and within 120 days of receipt of any income benefits, shall have the right to one examination at a reasonable time and place, within this state or within 50 miles of the employee's residence, by a duly qualified physician or surgeon designated by the employee and to be paid for by the employer. Such examination, of which the employer or insurer shall be notified in writing in advance, shall not repeat any diagnostic procedures which have been performed since the date of the employee's injury unless the costs of such diagnostic procedures which are in excess of $250.00 are paid for by a party other than the employer or the insurer. Such examination may include physical, psychiatric, and psychological examinations."

SECTION 5.

Said chapter is further amended by revising Code Section 34-9-205, relating to board approval of physician's fees, hospital, and other charges, as follows:

"34-9-205.

(a) Fees of physicians, charges of hospitals, charges for prescription drugs, and charges for other items and services under this chapter shall be subject to the approval of the State

Board of Workers' Compensation. No physician, hospital, or other provider of services shall be entitled to collect any fee unless reports required by the board have been made.

(b) Annually, the board shall publish a list by geographical location of usual, customary, and reasonable charges for all medical services provided under subsection (a) of this Code section. The board may consult with medical specialists in preparing said list. Fees within this list shall be presumed reasonable. No physician or hospital or medical supplier shall bill the employee for authorized medical treatment; provided, however, that if an employee fails to notify a physician, hospital, or medical supplier that he or she is being treated for an injury covered by workers' compensation insurance, such provider of medical services shall not be civilly liable to any person for erroneous billing for such covered treatment if the billing error is corrected by the provider upon notice of the same. The board may require recommendations from a panel of appropriate peers of the physician or hospital or other authorized medical supplier in determining whether the fees submitted and necessity of services rendered were reasonable. The recommendations of the panel of appropriate peers shall be evidence of the reasonableness of fees and necessity of service which the board shall consider in its determinations.

(c) Any party requesting peer review pursuant to the provisions of this Code section shall pay to the board such filing costs for peer review as established by the board; provided, however, that the prevailing party in any peer review request shall be entitled to recover its filing costs, if any, from the party which does not prevail."

SECTION 6.

Said chapter is further amended by revising Code Section 34-9-261, relating to compensation for total disability, as follows:

"34-9-261.

While the disability to work resulting from an injury is temporarily total, the employer shall pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the employee's average weekly wage but not more than $500.00 per week nor less than $50.00 per week, except that when the weekly wage is below $50.00, the employer shall pay a weekly benefit equal to the average weekly wage. The weekly benefit under this Code section shall be payable for a maximum period of 400 weeks from the date of injury; provided, however, that in the event of a catastrophic injury as defined in subsection (g) of Code Section 34-9-200.1, the weekly benefit under this Code section shall be paid until such time as the employee undergoes a change in condition for the better as provided in paragraph (1) of subsection (a) of Code Section 34-9-104."

SECTION 7.

Said chapter is further amended by revising Code Section 34-9-262, relating to compensation for temporary partial disability, as follows:

"34-9-262.

Except as otherwise provided in Code Section 34-9-263, where the disability to work resulting from the injury is partial in character but temporary in quality, the employer shall pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the difference between the average weekly wage before the injury and the average weekly wage the employee is able to earn thereafter but not more than $334.00 per week for a period not exceeding 350 weeks from the date of injury."

SECTION 8.

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

Approved May 29, 2007.

FOOD – MEAT INSPECTION; POULTRY PROCESSING PLANTS.

No. 336 (House Bill No. 433).

AN ACT

To amend Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to standards, labeling, and adulteration of food, so as to change certain provisions relating to application of Article 3 of said chapter, the "Georgia Meat Inspection Act"; to provide for jurisdiction and enforcement; to change certain provisions relating to licenses for meat and dairy processing plants, fees, term of validity, revocation or suspension, and notice and hearing; to change certain provisions relating to licenses for poultry processing plants, fees, display at place of business, transferability, suspension or revocation, notice and hearing, and registration; to provide for application of Article 6 of said chapter; to provide for jurisdiction and enforcement; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to standards, labeling, and adulteration of food, is amended by revising Code Section 26-2-64, relating to application of Article 3 of said chapter, the "Georgia Meat Inspection Act," as follows:

"26-2-64.

The requirements of this article shall apply to persons, firms, corporations, establishments, animals, and articles regulated under the Federal Meat Inspection Act, 21 U.S.C. Section

601, et seq., only to the extent provided for in said federal act. Consistent with said federal act, the Commissioner may exercise concurrent jurisdiction with the secretary of agriculture of the United States and may enforce this article and any regulations promulgated pursuant thereto without regard to licensing agency."

SECTION 2.

Said chapter is further amended by revising Code Section 26-2-209, relating to licenses for meat and dairy processing plants, fees, term of validity, revocation or suspension, and notice and hearing, as follows:

"26-2-209.

To assure the protection of the consuming public, no person shall operate a meat processing plant in this state without having first obtained a permanent license from the Commissioner; provided, however, that any meat processing plant operating under a federal grant of inspection from the United States Department of Agriculture, Food Safety Inspection Service, shall be exempt from such license requirement. There shall be no fee for such license. The license shall be kept on file in each place of business. The license shall not be transferable. The Georgia Department of Agriculture may refuse to grant inspection, and any such license may be revoked or suspended by the Commissioner for the violation of this article or rules and regulations or sanitary standards and specifications adopted pursuant to this article. The Commissioner shall notify the licensee of the reasons why he or she intends to revoke or suspend the license, and the licensee shall be entitled to a hearing before the Commissioner within ten days after receipt of such notice of intention to revoke or suspend. At such hearing the Commissioner shall consider the circumstances and shall give the licensee reasonable time to correct the conditions or circumstances that caused the notice of intention to revoke or suspend the license to be given."

SECTION 3.

Said chapter is further amended by revising Code Section 26-2-210, relating to licenses for poultry processing plants, fees, display at place of business, transferability, suspension or revocation, notice and hearing, and registration, as follows:

"26-2-210.

To assure the protection of the consuming public, no person shall operate a poultry processing plant in this state without having first obtained a permanent license from the Commissioner; provided, however, that any poultry processing plant operating under a federal grant of inspection from the United States Department of Agriculture, Food Safety Inspection Service, shall be exempt from such license requirement. There shall be no fee for such license. The license shall be kept on file in each place of business. The license shall not be transferable. The Georgia Department of Agriculture may refuse to grant inspection, and any such license may be revoked or suspended by the Commissioner for the violation of this article or rules and regulations or sanitary standards and specifications

adopted pursuant to this article. The Commissioner shall notify the licensee of the reasons why he or she intends to revoke or suspend the license, and the licensee shall be entitled to a hearing before the Commissioner within ten days after receipt of such notice of intention to revoke or suspend. At such hearing the Commissioner shall consider the circumstances and shall give the licensee reasonable time to correct the conditions or circumstances that caused the notice of intention to revoke or suspend the license to be given."

SECTION 4.

Said chapter is further amended by adding a new Code section to read as follows:

"26-2-213.1.

The requirements of this article shall apply to persons, firms, corporations, establishments, animals, and articles regulated under the federal Meat Inspection Act, 21 U.S.C. Section 601, et seq., or the federal Poultry Products Inspection Act, 21 U.S.C. Section 451, et seq., only to the extent provided for in said federal acts. Consistent with said federal acts, the Commissioner may exercise concurrent jurisdiction with the secretary of agriculture of the United States and may enforce this article and any regulations promulgated pursuant thereto without regard to licensing agency."

SECTION 5.

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

Approved May 29, 2007.

WATERS – HOUSEBOAT RESTRICTIONS; LAKE OCONEE.

No. 337 (House Bill No. 510).

AN ACT

To amend Code Section 52-7-13 of the Official Code of Georgia Annotated, relating to boating safety zones, restrictions on use of motors and operation of houseboats on certain lakes, and exceptions, so as to change certain provisions relating to prohibitions against operation of certain vessels on Lake Oconee; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 52-7-13 of the Official Code of Georgia Annotated, relating to boating safety zones, restrictions on use of motors and operation of houseboats on certain lakes, and exceptions, is amended by revising subsection (g) as follows:

"(g) The operation of any of the following vessels on Lake Oconee shall be prohibited:

(1) Any motorized vessel greater than 30 feet six inches in length; provided, however, that this paragraph shall not apply to:

(A) Law enforcement, scientific research, or dam operation and maintenance craft; or

(B) A vessel not greater than 40 feet in length used for conducting group tours on behalf of the owner or operator of a REAP certified by the Department of Community Affairs under Code Section 50-8-192 if the same vessel was lawfully operated on the lake by such REAP owner or operator under former provisions of this paragraph as such existed immediately prior to the effective date of this subparagraph; in addition, such vessel may be replaced by the same REAP owner or operator but only by one vessel at a time and only if each such predecessor vessel has been retired from lawfully operating on the lake and the replacement vessel does not exceed 40 feet in length; or

(2) Any vessel equipped with any type of bypass mechanism that reduces or eliminates the effectiveness of the muffler or baffler system required by Code Section 52-7-10."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 29, 2007.

PROFESSIONS AND BUSINESSES – RESIDENTIAL AND GENERAL CONTRACTORS; CREATE BOARD.

No. 338 (House Bill No. 224).

AN ACT

To amend Chapter 41 of Title 43 of the Official Code of Georgia Annotated, relating to residential and general contractors, so as to change certain provisions relating to creation of the State Licensing Board for Residential and General Contractors, membership, divisions,

vacancies, qualifications, terms, and meetings; to change certain provisions relating to appointment of members, chairperson, meetings and quorums, and assistance from professional licensing boards division; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 41 of Title 43 of the Official Code of Georgia Annotated, relating to residential and general contractors, is amended by revising Code Section 43-41-3, relating to creation of the State Licensing Board for Residential and General Contractors, membership, divisions, vacancies, qualifications, terms, and meetings, as follows:

"43-41-3.

(a) There is created the State Licensing Board for Residential and General Contractors consisting of 15 members appointed by the Governor for five-year terms. The board shall be assigned to the Secretary of State's office for administrative purposes and shall be under the jurisdiction of the division director and shall operate in accordance with and pursuant to the provisions of Chapter 1 of this title, as applicable. The board shall be comprised of two divisions: the residential contractor division, having jurisdiction of and authority over the two subcategories of residential contracting, residential-basic contractors and residential-light commercial contractors, and the general contractor division. Eight members shall be appointed and serve as members of the residential contractor division of the board and seven members shall be appointed and serve as members of the general contractor division of the board. Members shall serve until the expiration of their respective terms and until their successors are appointed and qualified. Vacancies occurring during a term shall be filled by appointment of the Governor for the remainder of the unexpired term and such replacement shall meet the requirements and criteria of selection of the person previously holding the vacant position. To be eligible to serve on the respective divisions of the board, each contractor member shall be and remain actively involved in the construction contracting business and shall have been so engaged for a period of not less than five consecutive years before the date of appointment in the particular contracting business, as a residential contractor or general contractor, corresponding to the division for which such person is appointed. Any contractor members whose term continues after or who are appointed to terms commencing two years from the date that this chapter becomes effective must also have been licensed and certified by the respective division of the board to operate as a contractor in the category to which the member is appointed. The position of any appointive member of the board who, during his or her term of appointment, shall cease to meet the qualifications for original appointment shall be immediately vacated. No member of the board shall be appointed to serve more than two full terms.

(b) The residential contractor division shall consist of eight members and, except as otherwise expressly stated in this chapter, shall have jurisdiction of and authority over the practice of the two subcategories of residential contracting, residential-basic contractors and residential-light commercial contractors. Six members shall be residential contractors eligible for licensure under this chapter; provided, however, that effective January 1, 2008, all residential contractor members shall be required to be licensed under this chapter. At least two of the residential contractor members shall be qualified to perform residential-light commercial type projects; three shall be qualified and shall predominantly perform residential-basic type projects; one shall be a residential contractor whose business predominately involves remodeling projects; one shall be a residential contractor who constructs at least an average of 20 residences per year; and all must be geographically diverse. One member shall be a public building official and one member shall be a public member. The public member shall have no ties with the residential construction industry and shall represent the interests of the public at large. The initial member terms on the residential contractor division shall be staggered so that all terms do not expire simultaneously. Three members shall serve initial terms of five years, three members shall serve initial terms of four years, one member shall serve an initial term of three years, and one member shall serve an initial term of one year. The residential contractor division shall meet at least six times each year for the purpose of transacting such business as may properly come before it.

(c) The general contractor division shall consist of seven members and, except as otherwise expressly stated in this chapter, shall have jurisdiction of and authority over the practice of general contracting. Five members shall be general contractors eligible for licensure under this chapter. Effective January 1, 2008, all general contractor members shall be required to be licensed under this chapter. At least two of the general contractor members shall be small-volume builders with an annual contracting volume of less than $5 million and all of whom must be geographically diverse. One member shall be a currently licensed or registered architect or engineer and one member shall be a public building official. The initial member terms on the general contractor division shall be staggered so that all terms do not expire simultaneously. Three members, including at least two contractor members, shall serve initial terms of five years; three members, including at least two contractor members, shall serve initial terms of four years; and one member shall serve an initial term of three years. The general contractor division shall meet at least six times each year for the purpose of transacting such business as may properly come before it."

SECTION 2.

Said chapter is further amended by revising subsection (a) of Code Section 43-41-4, relating to appointment of members, chairperson, meetings and quorums, and assistance from professional licensing boards division, as follows:

"(a) The initial members of the board shall be appointed no later than July 1, 2005. The fifteenth member of the board shall be appointed not later than July 1, 2007. The board shall meet within 30 days after its appointment at a time and place to be designated by the Governor and organize by electing a chairperson and a vice chairperson, each to serve for a one-year term."

SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 4.

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

Approved May 29, 2007.

PROFESSIONS – COSMETIC LASER PRACTITIONERS.

No. 339 (House Bill No. 528).

AN ACT

To amend Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians, physician's assistants, and others, so as to provide for the licensing of cosmetic laser practitioners; to provide a short title; to provide legislative findings; to provide for definitions; to provide for construction; to provide for applications to be made to the Composite State Board of Medical Examiners to obtain a license for different levels of cosmetic laser practitioner; to provide for powers and duties of the board; to provide for licensing standards and requirements; to provide for the issuance and renewal of licenses; to provide for permitted and prohibited activities; to provide continuing education requirements; to require that each facility offering cosmetic laser services have a consulting physician; to require that written consent be given for cosmetic laser services; to provide for rules and regulations; to provide for an advisory board; to provide for sanctions; to provide for related matters; to provide for a contingent effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians, physician's assistants, and others, is amended by adding a new article to read as follows:

"ARTICLE 9

43-34-240.

This article shall be known and may be cited as the 'Georgia Cosmetic Laser Services Act.'

43-34-241.

This article is enacted for the purpose of safeguarding the public health, safety, and welfare by providing for state administrative control, supervision, and regulation of the practice of providing cosmetic laser services. It is the intention of the General Assembly that cosmetic laser services be made available and affordable to the people of this state in a safe, reliable manner. Unregulated cosmetic laser services do not adequately meet the needs or serve the interests of the public. Licensure of those performing cosmetic laser services and required education and training of such practitioners will help ensure the health and safety of consumers. The practice of providing cosmetic laser services is declared to be affected with the public interest; and this article shall be liberally construed so as to accomplish the purpose stated in this Code section.

43-34-242.

As used in this article, the term:

(1) 'Board' means the Composite State Board of Medical Examiners created by Code Section 43-34-21.

(2) 'Consulting physician' means a person licensed to practice medicine under this chapter and:

(A) Whose principal place of practice is within this state; or

(B) Whose principal place of practice is outside this state but is within 50 miles from the facility with whom he or she has an agreement to provide services in accordance with Code Section 43-34-248.

(3) 'Consumer' means a person on whom cosmetic laser services are or are to be performed.

(4) 'Cosmetic laser practitioner' means a person licensed under this article to provide cosmetic laser services as defined in this article and whose license is in good standing.

(5) 'Cosmetic laser services' means nonablative elective cosmetic light based skin, photo rejuvenation, or hair removal using lasers and pulsed light devices approved by the United States Food and Drug Administration for noninvasive procedures. Such services and the provision thereof shall not be considered to be the practice of medicine.

(6) 'Facility' means any location, place, area, structure, office, institution, or business or a part thereof in which is performed or provided cosmetic laser services regardless of whether a fee is charged for such services.
(7) 'License' means a valid and current certificate of registration issued by the board which shall give the person to whom it is issued authority to engage in the practice prescribed thereon.
(8) 'Licensee' means any person holding a license under this article.
(9) 'Medical practitioner' means a registered professional nurse, licensed practical nurse, nurse practitioner, physician's assistant, or physician.
(10) 'Nurse' means a registered professional nurse, licensed practical nurse, or nurse practitioner.
(11) 'Person' means a natural person.

43-34-243.
This article shall not be construed to prohibit:
(1) A licensed physician from engaging in the practice for which he or she is licensed;
(2) A licensed physician's assistant from engaging in the practice for which he or she is licensed;
(3) A person licensed by this state as a registered professional nurse, licensed practical nurse, or nurse practitioner from engaging in his or her profession;
(4) A licensed esthetician from engaging in his or her profession;
(5) A master cosmetologist from engaging in his or her profession;
(6) Any person licensed under any other article of this chapter from engaging in the practice for which he or she is licensed;
(7) A person licensed in this state under any other law from engaging in the practice for which he or she is licensed;
(8) The practice of providing cosmetic laser services by a person who is employed by the federal government or any bureau, division, or agency of the federal government while in the discharge of the employee's official duties;
(9) The practice of providing cosmetic laser services by a student enrolled in an accredited school of nursing or medical school as part of his or her training; or
(10) Employees or authorized representatives of a manufacturer of a laser used for cosmetic laser services from engaging in one or more of the following: evaluating, adjusting, measuring, designing, fabricating, assembling, fitting, servicing, training, repairing, replacing, or delivering a laser used to provide cosmetic laser services under the order, direction, or prescription of a physician or health provider operating within his or her licensed scope of practice.

43-34-244.
(a) There shall be two levels of a license for a cosmetic laser practitioner: assistant laser practitioner and senior laser practitioner.

(b) Any person desiring to obtain a license as a cosmetic laser practitioner under the terms of this article shall make application to the board as follows:

(1) An applicant for an 'assistant laser practitioner' license shall present proof that he or she:

(A) Holds a current valid license or certificate of registration as a physician's assistant, nurse, esthetician, or master cosmetologist, or has previously held a license or certificate of registration as a medical practitioner; and

(B) Has received at least three laser certificates from attending laser/intense pulsed light (IPL) courses as approved by the board, directly taught by a licensed physician or certified continuing medical education or continuing education educator.

If, after review of the application, it is determined that the applicant is at least 21 years of age; has met the minimum educational requirements; is of good moral character; and is possessed of the requisite skill to perform properly cosmetic laser services, a license shall be issued to the applicant entitling the applicant to practice the occupation of cosmetic laser practitioner at the assistant laser practitioner level under the direct supervision of a senior laser practitioner.

(2) An applicant for a 'senior laser practitioner' license shall present proof that he or she:

(A) Holds a current valid license or certificate of registration as a physician's assistant or nurse or has previously held a license or certificate of registration as a medical practitioner;

(B) Has at least three years of clinical or technological medical experience, or both;

(C) Has been or was licensed or nationally board certified as a medical practitioner for at least three years; and

(D) Has received at least two laser certificates from attending laser/intense pulsed light (IPL) continuing medical education courses as approved by the board, directly taught by a licensed physician or certified continuing medical education or continuing education educator.

If, after review of the application, it is determined that the applicant is at least 21 years of age; has met the minimum educational and clinical training requirements to perform cosmetic laser services with indirect supervision; is of good moral character; and is possessed of the requisite skill to perform properly these services, a license shall be issued to the applicant entitling the applicant to practice the occupation of cosmetic laser practitioner at the senior laser practitioner level pursuant to the protocols of a consulting physician.

(c) The board shall be authorized to waive any education requirements under this Code section in cases of hardship, disability, or illness or under such other circumstances as the board deems appropriate with respect to any applicant who has practiced as a cosmetic laser practitioner prior to July 1, 2007.

(d) Should an applicant have a current cosmetic laser practitioner license or certificate of registration in force from another state, country, territory of the United States, or the District of Columbia, where similar reciprocity is extended to this state and licensure

requirements are substantially equal to those in this state, and have paid a fee and have submitted an application, the applicant may be issued a license at the appropriate level entitling him or her to practice the occupation of a cosmetic laser practitioner at that level, unless the board, in its discretion, sees fit to require a written or a practical examination subject to the terms and provisions of this article. The board shall be authorized to waive any education or experience requirements applicable to any person who holds a current license or certificate to practice as a cosmetic laser practitioner outside of this state and who desires to obtain a license at a level authorized under this Code section to practice as a cosmetic laser practitioner in this state in cases of hardship, disability, or illness or under such other circumstances as the board deems appropriate.

43-34-245.

(a) All licenses shall expire biennially unless renewed. All applications for renewal of a license shall be filed with the board prior to the expiration date, accompanied by the biennial renewal fee prescribed by the board. A license which has expired for failure of the holder to renew may only be restored after application and payment of the prescribed restoration fee within the time period established by the board and provided the applicant meets such requirements as the board may establish by rule. Any license which has not been restored within such period following its expiration may not be renewed, restored, or reissued thereafter. The holder of such a canceled license may apply for and obtain a valid license only upon compliance with all relevant requirements for issuance of a new license.

(b) As a condition of license renewal, the board shall require licensees to provide proof, in a form approved by the board, of a minimum of five hours of continuing education courses as approved by the board in the area of cosmetic laser services, equipment safety and operation, procedures, and relative skin modalities, directly taught by a licensed physician or certified continuing medical education or continuing education educator.

43-34-246.

(a) The board shall have authority to refuse to grant or restore a license to an applicant or to discipline a cosmetic laser practitioner under this article upon a finding by the board that the licensee or applicant has:

(1) Displayed an inability or has become unable to practice as a cosmetic laser practitioner with reasonable skill and safety to consumers by reason of illness, use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition:

(A) In enforcing this paragraph the board may, upon reasonable grounds, require a licensee or applicant to submit to a mental or physical examination by an appropriate practitioner of the healing arts designated by the board. The expense of such mental or physical examination shall be borne by the licensee or applicant. The results of such examination shall be admissible in any hearing before the board, notwithstanding any claim of privilege under a contrary rule of law or statute, including, but not limited to,

Code Section 24-9-21. Every person who shall accept the privilege of practicing cosmetic laser services in this state or who shall file an application for a license to provide cosmetic laser services in this state shall be deemed to have given his or her consent to submit to such mental or physical examination and to have waived all objections to the admissibility of the results in any hearing before the board upon the grounds that the same constitutes a privileged communication. If a licensee or applicant fails to submit to such an examination when properly directed to do so by the board, unless such failure was due to circumstances beyond his or her control, the board may enter a final order upon proper notice, hearing, and proof of such refusal. Any licensee or applicant who is prohibited from practicing cosmetic laser services under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate to the board that he or she can resume or begin the practice of cosmetic laser practitioner with reasonable skill and safety to consumers;

(B) For the purposes of this paragraph, the board may, upon reasonable grounds, obtain any and all records relating to the mental or physical condition of a licensee or applicant, including psychiatric records; and such records shall be admissible in any hearing before the board, notwithstanding any privilege under a contrary rule of law or statute, including, but not limited to, Code Section 24-9-21. Every person who shall accept the privilege of practicing as a cosmetic laser practitioner in this state or who shall file an application to practice cosmetic laser services in this state shall be deemed to have given his or her consent to the board's obtaining any such records and to have waived all objections to the admissibility of such records in any hearing before the board upon the grounds that the same constitute a privileged communication; and

(C) If any licensee or applicant could, in the absence of this paragraph, invoke a privilege to prevent the disclosure of the results of the examination provided for in subparagraph (A) of this paragraph or the records relating to the mental or physical condition of such licensee or applicant obtained pursuant to subparagraph (B) of this paragraph, all such information shall be received by the board in camera and shall not be disclosed to the public, nor shall any part of the record containing such information be used against any licensee or applicant in any other type of proceeding;

(2) Been convicted of a felony or crime involving moral turpitude in the courts of this state, the United States, or the conviction of an offense in another jurisdiction which if committed in this state would be deemed a felony. For the purpose of this Code section, a 'conviction' shall include a finding or verdict of guilty, a plea of guilty, or a plea of nolo contendere in a criminal proceeding regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon pursuant to the provisions of Code Sections 42-8-60 through 42-8-64, relating to first offenders, or any comparable rule or statute;

(3) Knowingly made misleading, deceptive, untrue, or fraudulent representations to a consumer or other person or entity in connection with the practice of providing cosmetic laser services or in any document connected therewith; practiced fraud or deceit or intentionally made any false statement in obtaining or attempting to obtain a license to

practice cosmetic laser services or as a cosmetic laser practitioner; or made a false or deceptive biennial registration with the board;

(4) Has had a license or certificate of registration as a medical practitioner revoked, suspended, or denied;

(5) Practiced cosmetic laser services contrary to this article or to the rules and regulations of the board; knowingly aided, assisted, procured, or advised any person to provide cosmetic laser services contrary to this article or to the rules and regulations of the board; or knowingly performed any act which in any way aids, assists, procures, advises, or encourages any unlicensed person to provide cosmetic laser services;

(6) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice need not have resulted in actual injury to any person, as determined as a result of an investigation initiated upon the board's own motion or as a result of a sworn written request for investigation, by or on behalf of a consumer, of an act or acts which occurred within three years of such initiation or request; or

(7) Failed to report to the board any act or omission of a licensee or applicant or any other person which violates the provisions of this article.

(b)(1) When the board finds that any person is unqualified to be granted a license or finds that any person should be disciplined pursuant to subsection (a) of this Code section, the board may take any one or more of the following actions:

(A) Refuse to grant or restore a license to an applicant;

(B) Administer a public or private reprimand, but a private reprimand shall not be disclosed to any person except the licensee;

(C) Suspend any license for a definite period;

(D) Limit or restrict any license;

(E) Revoke any license;

(F) Condition the penalty or withhold formal disposition, upon the cosmetic laser practitioner's submission to the care, counseling, or treatment of physicians or other professional persons, and the completion of such care, counseling, or treatment, as directed by the board; or

(G) Impose a fine not to exceed $500.00 for each violation of law, rule, or regulation of the board.

(2) In addition to or in conjunction with the actions enumerated pursuant to paragraph (1) of this subsection the board may make a finding adverse to the licensee or applicant but withhold imposition of judgment and penalty, or it may impose the judgment and penalty but suspend enforcement thereof and place the licensee or applicant on probation, which probation may be vacated upon noncompliance with such reasonable terms as the board may impose.

(c) In its discretion, the board may restore and reissue a license issued under this article and, as a condition thereof, it may impose any disciplinary or corrective measure provided in this article.

(d) A person, firm, corporation, association, authority, or other entity shall be immune from civil and criminal liability for reporting the acts or omissions of a licensee or applicant which violate the provisions of subsection (a) of this Code section or any other provision of law relating to a licensee's or applicant's fitness to practice as a cosmetic laser practitioner, if such report is made in good faith without fraud or malice. Any person who testifies without fraud or malice before the board in any proceeding involving a violation of the provisions of subsection (a) of this Code section or any other law relating to a licensee's or applicant's fitness to practice as a cosmetic laser practitioner shall be immune from civil and criminal liability for so testifying.

43-34-247.

The practice of providing cosmetic laser services is declared to be an activity affecting the public interest and involving the health, safety, and welfare of the public. Such practice when engaged in by a person who is not licensed as a cosmetic laser practitioner or otherwise licensed to practice a profession which is permitted under law to perform cosmetic laser services is declared to be harmful to the public health, safety, and welfare. The board or the district attorney of the circuit where such unlicensed practice exists, or any person or organization having an interest therein, may bring a petition to restrain and enjoin such unlicensed practice in the superior court of the county where such unlicensed person resides. It shall not be necessary in order to obtain an injunction under this Code section to allege or prove that there is no adequate remedy at law, or to allege or prove any special injury.

43-34-248.

Any facility providing cosmetic laser services shall have an agreement with a consulting physician who shall:

(1) Be trained in laser modalities;

(2) Establish proper protocols for the cosmetic laser services provided at the facility and file such protocols with the board; and

(3) Be available for emergency consultation with the cosmetic laser practitioner or anyone employed by the facility.

43-34-249.

(a) Prior to receiving cosmetic laser services from a cosmetic laser practitioner, a person must consent in writing to such services and shall be informed in writing of the general terms of the following:

(1) The nature and purpose of such proposed procedure;

(2) Any material risks generally recognized and associated with the cosmetic laser service to be performed which, if disclosed to a reasonably prudent person in the customer's position, could reasonably be expected to cause such prudent person to

decline such proposed cosmetic laser services on the basis of the material risk of injury that could result from such proposed services;

(3) The type of license the individual who will performing the cosmetic laser service has obtained; and

(4) The steps to be followed after the cosmetic laser service is performed in the event of any complications.

(b) It shall be the responsibility of the cosmetic laser practitioner to ensure that the information required by subsection (a) of this Code section is disclosed and that the consent provided for in this Code section is obtained.

(c) Where the consumer is under 18 years of age, the consent of the consumer's parent or legal guardian shall be required.

(d) The board shall be required to adopt and have the authority to promulgate rules and regulations governing and establishing the standards necessary to implement this Code section specifically including but not limited to the disciplining of a cosmetic laser practitioner who fails to comply with this Code section.

(e) Nothing in this Code section shall prohibit the information provided for in this Code section from being disclosed through the use of video tapes, audio tapes, pamphlets, booklets, or other means of communication or through conversations with the cosmetic laser practitioner; provided, however, that such information is also provided in writing and attached to the consent form which the consumer signs.

43-34-250.

The board shall appoint an advisory committee. The advisory committee shall be representative of a cross section of the cultural backgrounds, to the extent practical, of the licensed cosmetic laser practitioners licensed under this article and such members as the board in its discretion may determine. Members shall receive no compensation for service on the committee. The committee shall have such advisory duties and responsibilities as the board may determine, including but not limited to consulting with the board on the issuance, denial, suspension, and revocation of licenses and the promulgation of rules and regulations under this article. The initial members of the advisory committee may include persons eligible for licensing under this article. Subsequent advisory committee members must be licensed pursuant to this article.

43-34-251.

(a) It shall be unlawful for any person licensed as a cosmetic laser practitioner to perform cosmetic laser services within any area within one inch of the nearest part of the eye socket of any consumer.

(b) It shall be unlawful for any person licensed as a cosmetic laser practitioner to administer any pharmaceutical agent or other substance by injection.

43-34-252.
Any person who owns a facility in which cosmetic laser services are offered or performed in noncompliance with the requirements of this article shall be guilty of a misdemeanor.

43-34-253.
Any person convicted of violating any provision of this article shall be guilty of a misdemeanor."

SECTION 2.
This Act shall become effective only if funds are specifically appropriated for the purposes of this Act in a General Appropriations Act making specific reference to this Act and shall become effective when funds so appropriated become available for expenditure.

SECTION 3.
All laws and parts of laws in conflict with this Act are repealed.

Approved May 29, 2007.

MOTOR VEHICLES – SALVAGED OR REBUILT VEHICLES; INSPECTIONS; FEES.

No. 340 (House Bill No. 183).

AN ACT

To amend Chapter 3 of Title 40 of the Official Code of Georgia Annotated, relating to motor vehicle certificates of title, security interests, and liens, so as to change certain provisions relating to definitions; to change certain provisions relating to salvaged or rebuilt motor vehicles, inspections, and fees; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
Chapter 3 of Title 40 of the Official Code of Georgia Annotated, relating to certificates of title, security interests, and liens, is amended by revising Code Section 40-3-2, relating to definitions, as follows:
"40-3-2.
As used in this chapter, the term:

(1) 'Boat trailer' means any vehicle without motive power designed for carrying boats, either partially or wholly on its own structure, which is being drawn by a self-propelled vehicle and operated over the public roads of this state.
(2) 'Commissioner' means the state revenue commissioner.
(3) 'Dealer' means a 'dealer' as defined in Code Section 40-1-1, to whom current dealer registration plates have been issued by the commissioner.
(3.1) 'Department' means the Department of Revenue.
(4) 'Homemade trailer' means a vehicle without motive power, designed for carrying persons or property either partially or wholly on its own structure and for being drawn by a self-propelled vehicle other than a self-propelled vehicle running exclusively on tracks, which trailer has been manufactured and constructed from component parts for personal use and not for the purpose of commercial resale.
(5) 'Identifying number' means the numbers and letters, if any, on a vehicle designated by the commissioner for the purpose of identifying the vehicle.
(6) 'Lien' means any lien created by operation of law and not by contract or agreement with respect to a vehicle and includes all liens mentioned in Code Section 44-14-320, other than that in paragraph (5) thereof, and all liens for taxes due the United States of America, constructive notice of which is given by filing notice thereof in the office designated by state law.
(7) 'Lienholder' means a person holding a lien created by operation of law on a motor vehicle.
(8) To 'mail' means to deposit in the United States mail properly addressed and with postage paid.
(9) 'Major component part' means any one of the following subassemblies of a motor vehicle:
(A) Front clip assembly (fenders, hood, and bumper);
(B) Rear clip assembly (quarter panels, floor panel assembly, and roof assembly, excluding a soft top);
(C) Engine and transmission;
(D) Frame; or
(E) Complete side (fenders, door, and quarter panel).
(9.1) 'Natural person' means an individual human being and does not include any firm, partnership, association, corporation, or trust.
(10) 'Rebuilt motor vehicle' means any motor vehicle which has been damaged and subsequently restored to an operable condition by the replacement of two or more major component parts.
(11) 'Salvage motor vehicle' means any motor vehicle:
(A) Which has been damaged to the extent that its restoration to an operable condition would require the replacement of two or more major component parts;
(B) For which an insurance company has paid a total loss claim and the vehicle has not been repaired, regardless of the extent of damage to such vehicle or the number of

major component parts required to repair such vehicle, but shall not mean or include any stolen motor vehicle which has been recovered with the public manufacturer's vehicle identification number plate intact and the vehicle:

(i) Is undamaged;

(ii) Has only cosmetic damage; or

(iii) Has been damaged but only to the extent that its restoration to an operable condition will not require the replacement of two or more major component parts;

(C) Which is an imported motor vehicle which has been damaged in shipment and disclaimed by the manufacturer as a result of the damage, has never been the subject of a retail sale to a consumer, and has never been issued a certificate of title.

The term salvage motor vehicle shall not include any motor vehicle for which a total loss claim has been paid which vehicle has sustained only cosmetic damage from causes other than fire or flood.

(12) 'Security agreement' means a written agreement which reserves or creates a security interest.

(13) 'Security interest' means an interest in a vehicle reserved or created by agreement which secures the payment or performance of an obligation, such as a conditional sales contract, chattel mortgage, bill of sale to secure debt, deed of trust, and the like. This term includes the interest of a lessor under a lease intended as security.

(14) 'Security interest holder' means the holder of an interest in a vehicle reserved or created by agreement and which secures payment or performance of an obligation."

SECTION 2.

Said chapter is further amended by revising subsections (d) and (e) of Code Section 40-3-36, relating to cancellation of certificate of title for scrap, dismantled, or demolished vehicles, salvage certificate of title, administrative enforcement, and removal of license plates, as follows:

"(d) Any certificate of title which is issued to a salvage motor vehicle, as provided for in this Code section, shall contain the word 'salvage' on the face of the certificate in such a manner as the commissioner may prescribe, so as to indicate clearly that the motor vehicle described is a salvage motor vehicle. The legend 'rebuilt' in no larger than 12 point font shall be placed on a certificate of title to a vehicle which was declared a salvage vehicle and subsequently repaired with less than two major component parts to restore the vehicle to an operable condition.

(e) Notwithstanding this subsection and subsections (c) and (d) of Code Section 40-3-37, the legend 'rebuilt' shall only be required to be placed on the certificate of title to a vehicle which was declared a salvage vehicle on or after July 1, 2004, and which was subsequently rebuilt."

SECTION 3.

Said chapter is further amended by revising subsection (d) of Code Section 40-3-37, relating to salvaged or rebuilt motor vehicles, inspections, fees, exemption of motorcycles, and glider kits, as follows:

"(d)(1)(A) Upon inspection under subsection (b) of this Code section, if it is determined that the motor vehicle has been restored to an operable condition by the replacement of two or more major component parts, a certificate of title may be issued for such motor vehicle which shall contain the word 'rebuilt' on its face in no larger than 12 point font. This requirement will indicate to all subsequent owners of the motor vehicle that such is a rebuilt motor vehicle. If any such inspection determines that the motor vehicle shall require the replacement of less than two major component parts in order to restore the motor vehicle to an operable condition, a certificate of title shall be issued for such motor vehicle which shall contain the word 'rebuilt' on its face in such manner as the commissioner shall prescribe. This requirement will indicate to all subsequent owners of the motor vehicle that such is a rebuilt motor vehicle.

(B) If it is determined that the motor vehicle required or shall require the replacement of two or more major component parts in order to restore the motor vehicle to an operable condition, the department shall cause the word 'rebuilt' to be affixed to said motor vehicle at the time of inspection by the commissioner. The word 'rebuilt' shall be affixed in a clear and conspicuous manner to the door post or such other location as the commissioner may prescribe. The word 'rebuilt' shall be stamped on a certificate and shall be affixed to the motor vehicle in such manner as the commissioner may prescribe. The requirement of this subparagraph shall only apply to motor vehicles restored after November 1, 1982.

(2) Upon inspection by the commissioner and compliance with paragraph (2) of subsection (b) of this Code section, if it is determined that the motor vehicle does not require the replacement of two or more major components or has not had two or more major components changed, a certificate of title shall be issued and shall contain the word 'rebuilt' on its face.

(3) If, after the initial inspection, the commissioner determines that the damage is so extensive that returning such vehicle to a safe, operable condition is impossible, the salvage certificate shall be revoked and such vehicle may only be used for scrap or parts. A vehicle for which such a determination is made shall not be issued a title under any circumstances or conditions including but not limited to obtaining of a surety bond."

SECTION 4.

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

Approved May 29, 2007.

MOTOR VEHICLES – INTERNATIONAL REGISTRATION PLAN; COUNTY TAG AGENTS; RENEWALS; TRANSFERS; TEMPORARY PERMITS.

No. 341 (Senate Bill No. 77).

AN ACT

To amend Article 3A of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to reciprocal agreements for registration of commercial vehicles, so as to direct county tag agents to register vehicles under the International Registration Plan; to provide for the issuance of temporary permits for renewals and transfers; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

(d) The department shall commence to initiate an electronic filing system for registration of commercial vehicles under the International Registration Plan by January 1, 2008, including temporary operating permits valid for any length of time; provided, however, that in no event shall the total number of days of all temporary operating permits issued for a vehicle exceed 60 days from the registration application filing date.

SECTION 2.

This Act shall become effective on July 1, 2007.

SECTION 3.

All laws and part of law in conflict with this Act are repealed.

Approved May 29, 2007.

LOCAL GOVERNMENT – PUBLIC WORKS BIDDING; CONTRACT OPPORTUNITIES.

No. 342 (Senate Bill No. 146).

AN ACT

To amend Chapter 91 of Title 36 of the Official Code of Georgia Annotated, relating to public works bidding, so as to provide definitions; to provide for the advertisement of contract opportunities; to provide for the specifications of such notices and advertisements; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 91 of Title 36 of the Official Code of Georgia Annotated, relating to public works bidding, is amended by revising Code Section 36-91-2, relating to definitions, as follows:

"36-91-2.

As used in this chapter, the term:

(1) 'Alternate bids' means the amount stated in the bid or proposal to be added to or deducted from the amount of the base bid or base proposal if the corresponding change in project scope or alternate materials or methods of construction is accepted.

(2) 'Base bid' or 'base proposal' means the amount of money stated in the bid or proposal as the sum for which the bidder or proposer offers to perform the work.

(3) 'Bid bond' means a bond with good and sufficient surety or sureties for the faithful acceptance of the contract payable to, in favor of, and for the protection of the governmental entity for which the contract is to be awarded.

(4) 'Change order' means an alteration, addition, or deduction from the original scope of work as defined by the contract documents to address changes or unforeseen conditions necessary for project completion.

(5) 'Competitive sealed bidding' means a method of soliciting public works construction contracts whereby the award is based upon the lowest responsive, responsible bid in conformance with the provisions of subsection (b) of Code Section 36-91-21.

(6) 'Competitive sealed proposals' means a method of soliciting public works contracts whereby the award is based upon criteria identified in a request for proposals in conformance with the provisions of subsection (c) of Code Section 36-91-21.

(7) 'Emergency' means any situation resulting in imminent danger to the public health or safety or the loss of an essential governmental service.

(8) 'Governing authority' means the official or group of officials responsible for governance of a governmental entity.

(9) 'Governmental entity' means a county, municipal corporation, consolidated government, authority, board of education, or other public board, body, or commission but shall not include any authority, board, department, or commission of the state, or a public transportation agency as defined by Chapter 9 of Title 32.

(10) 'Payment bond' means a bond with good and sufficient surety or sureties payable to the governmental entity for which the work is to be done and intended for the use and protection of all subcontractors and all persons supplying labor, materials, machinery, and equipment in the prosecution of the work provided for in the public works construction contract.

(11) 'Performance bond' means a bond with good and sufficient surety or sureties for the faithful performance of the contract and to indemnify the governmental entity for any damages occasioned by a failure to perform the same within the prescribed time. Such bond shall be payable to, in favor of, and for the protection of the governmental entity for which the work is to be done.

(12) 'Public works construction' means the building, altering, repairing, improving, or demolishing of any public structure or building or other public improvements of any kind to any public real property other than those projects covered by Chapter 4 of Title 32. Such term does not include the routine operation, repair, or maintenance of existing structures, buildings, or real property.

(13) 'Responsible bidder' or 'responsible offeror' means a person or entity that has the capability in all respects to perform fully and reliably the contract requirements.

(14) 'Responsive bidder' or 'responsive offeror' means a person or entity that has submitted a bid or proposal that conforms in all material respects to the requirements set forth in the invitation for bids or request for proposals.

(15) 'Scope of project' means the work required by the original contract documents and any subsequent change orders required or appropriate to accomplish the intent of the project as described in the bid documents.

(16) 'Scope of work' means the work that is required by the contract documents.

(17) 'Sole source' means those procurements made pursuant to a written determination by a governing authority that there is only one source for the required supply, service, or construction item."

SECTION 2.

Said chapter is further amended by revising Code Section 36-91-20, relating to written contract required, as follows:

"36-91-20.

(a) All public works construction contracts subject to this chapter entered into by a governmental entity with private persons or entities shall be in writing and on file and available for public inspection at a place designated by such governmental entity. Municipalities and consolidated governments shall execute and enter into contracts in the manner provided in applicable local legislation or by ordinance.

(b)(1) Prior to entering into a public works construction contract other than those exempted by Code Section 36-91-22, a governmental entity shall publicly advertise the contract opportunity. Such notice shall be posted conspicuously in the governing authority's office and shall be advertised in the legal organ of the county or by electronic means on an Internet website of the governmental entity or an Internet website identified by the governmental entity which may include the Georgia Procurement Registry as provided by Code Section 50-5-69.

(2) Contract opportunities that are advertised in the legal organ shall be advertised a minimum of two times, with the first advertisement occurring at least four weeks prior to the opening of the sealed bids or proposals. The second advertisement shall follow no earlier than two weeks from the first advertisement.

(3) Contract opportunities that are advertised solely on the Internet shall be posted continuously for at least four weeks prior to the opening of sealed bids or proposals. Inadvertent or unintentional loss of Internet service during the advertisement period shall not require the contract award or bid or proposal opening to be delayed.

(4) Contract opportunities that will be awarded by competitive sealed bids shall have plans and specifications available on the first day of the advertisement and shall be open to inspection by the public. The plans and specifications shall indicate if the project will be awarded by base bid or base bid plus selected alternates and:

(A) A statement listing whether all anticipated federal, state, or local permits required for the project have been obtained or an indication of the status of the application for each such permit including when it is expected to be obtained; and

(B) A statement listing whether all anticipated rights of way and easements required for the project have been obtained or an indication of the status as to when each such rights of way or easements are expected to be obtained.

(5) Contract opportunities that will be awarded by competitive sealed proposals shall be publicly advertised with a request for proposals which request shall include conceptual program information in the request for proposals describing the requested services in a level of detail appropriate to the project delivery method selected for the project.

(6) The advertisement shall include such details and specifications as will enable the public to know the extent and character of the work to be done.

(7) All required notices of advertisement shall also advise of any mandatory prequalification requirements or pre-bid conferences as well as any federal requirements pursuant to subsection (d) of Code Section 36-91-22. Any advertisement which provides notice of a mandatory pre-bid conference or prequalification shall provide reasonable advance notice of said conference or for the submittal of such prequalification information.

(c) Governmental entities are authorized to utilize any construction delivery method, provided that all public works construction contracts subject to the requirements of this chapter that:

(1) Place the bidder or offeror at risk for construction; and

(2) Require labor or building materials in the execution of the contract

shall be awarded on the basis of competitive sealed bidding or competitive sealed proposals. Governmental entities shall have the authority to reject all bids or proposals or any bid or proposal that is nonresponsive or not responsible and to waive technicalities and informalities.

(d) No governmental entity shall issue or cause to be issued any addenda modifying plans and specifications within a period of 72 hours prior to the advertised time for the opening bids or proposals, excluding Saturdays, Sundays, and legal holidays. However, if the necessity arises to issue an addendum modifying plans and specifications within the 72 hour period prior to the advertised time for the opening of bids or proposals, excluding Saturdays, Sundays, and legal holidays, then the opening of bids or proposals shall be extended at least 72 hours, excluding Saturdays, Sundays, and legal holidays, from the date of the original bid or proposal opening without need to readvertise as required by subsection (b) of this Code section.

(e) Bid and contract documents may contain provisions authorizing the issuance of change orders, without the necessity of additional requests for bids or proposals, within the scope of the project when appropriate or necessary in the performance of the contract. Change orders may not be used to evade the purposes of this article.

(f) Any governmental entity may, in its discretion, adopt a process for mandatory prequalification of prospective bidders or offerors; provided, however, that:

(1) Criteria for prequalification must be reasonably related to the project or the quality of work;

(2) Criteria for prequalification must be available to any prospective bidder or offeror requesting such information for each project that requires prequalification;

(3) Any prequalification process must include a method of notifying prospective bidders or offerors of the criteria for or limitations to prequalification; and

(4) Any prequalification process must include a procedure for a disqualified bidder to respond to his or her disqualification to a representative of the governmental entity; provided, however, that such procedure shall not be construed to require the governmental entity to provide a formal appeals procedure. A prequalified bidder or offeror can not be later disqualified without cause."

SECTION 3.

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

Approved May 29, 2007.

STATE GOVERNMENT – GRANT PROGRAM; E-85 GASOLINE.

No. 343 (Senate Bill No. 157).

AN ACT

To provide for grants to persons to finance installing, replacing, and converting motor fuel storage equipment to facilitate storing and dispensing E-85 gasoline for retail sale; to amend Chapter 8 of Title 50 of the Official Code of Georgia Annotated, relating to the Department of Community Affairs, so as to establish such grant program under the department and pursuant to contract with the Georgia Environmental Facilities Authority; to define certain terms; to provide legislative findings and declarations; to provide for rules and regulations; to provide an effective date; to provide for a limited period; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 8 of Title 50 of the Official Code of Georgia Annotated, relating to the Department of Community Affairs, is amended by enacting a new Article 7 to read as follows:

"ARTICLE 7

50-8-170.

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

(1) 'Board' means the Board of Community Affairs.

(2) 'Department' means the Department of Community Affairs.

(3) 'E-85 gasoline' means a blend of ethanol and gasoline that by volume consists of not less than 70 percent nor more than 85 percent ethanol which meets the American Society of Testing and Materials (ASTM) D5798-99 Standard Specification for Fuel Ethanol for Automotive Spark-Ignition Engines.

(4) 'E-85 project' means installing, replacing, or converting motor fuel storage and dispensing equipment at sites where motor fuel is stored and dispensed for retail sale such that the installed, replacement, or converted equipment shall be used exclusively for storing and dispensing E-85 gasoline for retail sale for a period of not less than five consecutive years.

(5) 'Gasoline' has the meaning provided by Code Section 48-9-2.

(6) 'Motor fuel' has the meaning provided by Code Section 48-9-2.

(7) 'Motor fuel storage and dispensing equipment' means tanks, pumps, dispensers, pipes, hoses, tubes, lines, fittings, valves, filters, seals, covers, and other associated equipment used in storing and dispensing motor fuel for retail sale.

(8) 'Retail sale' means the sale for consumption, and not for resale, at a retail outlet serving the motoring public.

(b) The General Assembly finds and declares that facilitating E-85 projects through a program established by the department would return a substantial benefit to the state by promoting investment of private capital to provide improved air quality in this state through reduction of combustion of gasoline in motor vehicles; aid compliance with federal air quality standards; promote the use of alternative domestic fuels that reduce dependence on foreign petroleum supplies; and enable increased availability of motor fuels crucial to the state's economy, welfare, and public safety, which may be especially critical in times of natural disaster or international crisis.

(c) The department shall establish a grant program to fund the costs of E-85 projects, subject to availability of funds. The department shall enter into an intergovernmental contract with the Georgia Environmental Facilities Authority for purposes of developing, implementing, and administering such program and disbursing any grant moneys thereunder, and the authority is authorized to and shall develop, implement, and administer such program and disburse any grant moneys subject to the following minimum criteria:

(1) Each grant applicant shall submit a project plan that shall be subject to approval by the Georgia Environmental Facilities Authority;

(2) A grant for any approved project shall not exceed $20,000.00 or 33 1/3 percent of the planned cost of the project, whichever is less, and the applicant shall be required to pay the remainder of the project cost. This paragraph shall not prohibit the applicant from using grants or loans from federal government or private sources to pay for such remainder of the project cost;

(3) Construction for any approved project shall begin not later than six months after the date of the grant;

(4) Any approved project shall be completed not later than one year after the date of the grant;

(5) A project shall be used for the purposes and period required for such project as specified in paragraph (4) of subsection (a) of this Code section; and

(6) Grant money for a project shall be refunded to the state with interest at the legal rate not later than two years after any failure to meet the requirements of paragraph (3), (4), or (5) of this subsection.

(d) The Georgia Environmental Facilities Authority shall adopt such rules and regulations as are reasonable and necessary to implement and administer the grant program established under this Code section.

(e) No grants shall be made under this Code section on or after July 1, 2009."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 29, 2007.

SOCIAL SERVICES – FOSTER PARENTS; GRIEVANCES.

No. 344 (Senate Bill No. 188).

AN ACT

To amend Article 14 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to the foster parents bill of rights, so as to provide for findings at the General Assembly; to provide that foster parents who care for children in the custody of the Department of Human Resources shall have the right to file a grievance; to provide that the department shall make certain considerations in developing certain policies; to provide for certain policies; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 14 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to the foster parents bill of rights, is amended by revising Code Section 49-5-281, relating to the bill of rights for foster parents, as follows:

"49-5-281.

(a) The General Assembly finds that foster parents providing care for children who are in the custody of the Department of Human Resources play an integral, indispensable, and vital role in the state's effort to care for dependent children displaced from their homes. The General Assembly further finds that it is in the best interest of Georgia's child welfare system to acknowledge foster parents as active and participating members of this system and to support them through the following bill of rights for foster parents who care for children in the custody of the Department of Human Resources through direct approval and placement by the department:

(1) The right to be treated by the Division of Family and Children Services of the Department of Human Resources and other partners in the care of abused children with dignity, respect, and trust as a primary provider of foster care and a member of the professional team caring for foster children;
(2) The right not to be discriminated against on the basis of religion, race, color, creed, gender, marital status, national origin, age, or physical handicap;
(3) The right to continue with his or her own family values and beliefs, so long as the values and beliefs of the foster child and the birth family are not infringed upon and consideration is given to the special needs of children who have experienced trauma and separation from their families. This shall include the right to exercise parental authority within the limits of policies, procedures, and other directions of the Division of Family and Children Services and within the limits of the laws of the State of Georgia;
(4) The right to receive both standardized pre-service training, including training in Division of Family and Children Services policies and procedures and appropriate ongoing training, by the Division of Family and Children Services or the placing agency at appropriate intervals to meet mutually assessed needs of the child and to improve foster parents' skills and to apprise foster parents of any changes in policies and procedures of the Division of Family and Children Services and any changes in applicable law;
(5) The right to be apprised of information, laws, and guidelines on the obligations, responsibilities, and opportunities of foster parenting and to be kept informed of any changes in laws, policies, and procedures regarding foster parenting by the Division of Family and Children Services in a timely manner and at least annually;
(6) The right to receive timely financial reimbursement according to the agreement between the foster parents and the Department of Human Resources from funds appropriated by the General Assembly and to be notified of any costs or expenses for which the foster parent may be eligible for reimbursement;
(7) The right to receive information from the Division of Family and Children Services on how to receive services and reach personnel 24 hours per day, seven days per week;
(8) The right prior to the placement of a child to be notified of any issues relative to the child that may jeopardize the health and safety of the foster family or the child or alter the manner in which foster care should be administered;
(9) The right to discuss information regarding the child prior to placement. The Division of Family and Children Services will provide such information as it becomes available as allowable under state and federal laws;
(10) The right to refuse placement of a child in the foster home or to request, upon reasonable notice, the removal of a child from the foster home without fear of reprisal or any adverse affect on being assigned any future foster or adoptive placements;
(11) The right to receive any information through the Division of Family and Children Services regarding the number of times a foster child has been moved and the reasons therefor; and to receive the names and phone numbers of the previous foster parents if the

previous foster parents have authorized such release and as allowable under state and federal law;

(12) The right, at any time during which a child is placed with the foster parent, to receive from the Division of Family and Children Services any and all additional pertinent information relevant to the care of the child;

(13) The right to be provided with a written copy of the individual treatment and service plan concerning the child in the foster parent's home and to discuss such plan with the case manager, as well as reasonable notification of any changes to that plan;

(14) The right to participate in the planning of visitation with the child and the child's biological family with the foster parents recognizing that visitation with his or her biological family is important to the child;

(15) The right to participate in the case planning and decision-making process with the Division of Family and Children Services regarding the child as provided in Code Section 15-11-58;

(16) The right to provide input concerning the plan of services for the child and to have that input considered by the department;

(17) The right to communicate for the purpose of participating in the case of the foster child with other professionals who work with such child within the context of the professional team, including, but not limited to, therapists, physicians, and teachers, as allowable under state and federal law;

(18) The right to be notified in advance, in writing, by the Division of Family and Children Services or the court of any hearing or review where the case plan or permanency of the child is an issue, including periodic reviews held by the court or by the Judicial Citizen Review Panel, hearings following revocation of the license of an agency which has permanent custody of a child, permanency hearings, and motions to extend custody, in accordance with Code Section 15-11-58;

(19) The right to be considered, where appropriate, as a preferential placement option when a child who was formerly placed with the foster parents has reentered the foster care system;

(20) The right to be considered, where appropriate, as the first choice as a permanent parent or parents for a child who, after 12 months of placement in the foster home, is released for adoption or permanent foster care;

(21) The right to be provided a fair and timely investigation of complaints concerning the operation of a foster home;

(22) The right to an explanation of a corrective action plan or policy violation relating to foster parents; and

(23) The right, to the extent allowed under state and federal law, to have an advocate present at all portions of investigations of abuse and neglect at which an accused foster parent is present. Child abuse and neglect investigations shall be investigated pursuant to Division of Family and Children Services policies and procedures, and any removal of a foster child shall be conducted pursuant to those policies and procedures. The

Division of Family and Children Services will permit volunteers with the Adoptive and Foster Parent Association of Georgia to be educated concerning the procedures relevant to investigations of alleged abuse and neglect and the rights of accused foster parents. After such training, a volunteer will be permitted to serve as an advocate for an accused foster parent. All communication received by the advocate in this capacity shall be strictly confidential.

(b) This bill of rights shall be given full consideration when Division of Family and Children Services policies regarding foster care and adoptive placement are developed.

(c) Foster parents who care for children in the custody of the Department of Human Resources through direct approval and placement by the department shall have the right to file a grievance in response to any violation of this article, which shall be such foster parents' exclusive administrative remedy for any violation of this article. The Division of Family and Children Services and the Office of the Child Advocate for the Protection of Children, along with an advisory committee comprised in part of representatives from the Adoptive and Foster Parent Association of Georgia, who provide private placements will develop a grievance procedure, including a mediation procedure, to be published in departmental policy manuals and the Foster Parent Handbook no later than July 1, 2005.

(d) The General Assembly further finds that it is also in the best interest of Georgia's child welfare system for the Division of Family and Children Services of the Department of Human Resources to recognize the bill of rights, with reasonable modifications made to adapt the provisions as required to make them applicable to private agencies, by incorporating them into contracts with private agencies serving children in the custody of the Department of Human Resources. The Department of Human Resources shall, by contract, require that providers, with whom it contracts for the placement of children in its custody, give full consideration to the rights in subsection (a) of this Code section in developing their policies, practices, and procedures regarding foster care and adoptive placement. The department shall provide information needed by the contractors to meet the requirements of this subsection in a timely manner.

(e) The Department of Human Resources, in consultation with the representatives of Georgia Association of Homes and Services for Children and other appropriate provider associations and the Adoptive and Foster Parent Association of Georgia, shall develop a grievance procedure for dealing with any grievances their foster parents have in response to any violation of this article, no later than July 1, 2007. The department shall enforce this provision through policies and procedures and through its contracts with providers."

SECTION 2.

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

Approved May 29, 2007.

COMMERCE – SECONDARY METALS RECYCLING; PROPERTY RECOVERY.

No. 345 (Senate Bill No. 203).

AN ACT

To amend Article 14 of Chapter 1 of Title 10 and Code Section 16-8-12 of the Official Code of Georgia Annotated, relating to secondary metals recyclers and penalties for certain theft crimes, respectively, so as to change a definition; to change provisions relating to actions to recover property; to change provisions relating to penalties for violating Article 14 of Chapter 1 of Title 10; to change certain penalties for certain theft crimes; to provide for legislative findings and preemption; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 14 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to secondary metals recyclers, is amended by revising paragraph (3) of Code Section 10-1-350, relating to definitions, as follows:

"(3) 'Nonferrous metals' means stainless steel beer kegs and metals not containing significant quantities of iron or steel, including, without limitation, copper, brass, aluminum, bronze, lead, zinc, nickel, and alloys thereof."

SECTION 1.1.

Said article is further amended by revising Code Section 10-1-354, relating to contesting identification or ownership of regulated metal property and action to recover property, as follows:

"10-1-354.

(a) If the secondary metals recycler contests the identification or ownership of the regulated metal property, the party other than the secondary metals recycler claiming ownership of any regulated metal property in the possession of a secondary metals recycler may, provided that a timely report of the theft of the regulated metal property was made to the proper authorities, bring an action in the superior or state court of the county in which the secondary metals recycler is located. The petition for such action shall include a description of the means of identification of the regulated metal property utilized by the petitioner to determine ownership of the regulated metal property in the possession of the secondary metals recycler.

(b) When a lawful owner recovers stolen regulated metal property from a secondary metals recycler who has complied with the provisions of this article, and the person who sold the

regulated metal property to the secondary metals recycler is convicted of theft by taking, theft by conversion, a violation of this article, theft by receiving stolen property, or criminal damage to property in the first degree, the court shall order the defendant to make full restitution, including, without limitation, attorneys' fees, court costs, and other expenses to the secondary metals recycler or lawful owner, as appropriate.

(c) When a lawful owner recovers stolen regulated metal property from a secondary metals recycler who has knowingly and intentionally not complied with the provisions of this article, and the secondary metals recycler is convicted of theft by taking, theft by conversion, theft by receiving stolen property, or a violation of this article, the court shall order the defendant to make full restitution, including, without limitation, attorneys' fees, court costs, and other expenses to the lawful owner."

SECTION 2.

Said article is further amended by revising Code Section 10-1-357, relating to penalties for violations of the article, as follows:

"10-1-357.

(a) Any person selling regulated metal property to a secondary metals recycler in violation of any provision of this article shall be guilty of a misdemeanor unless the value of the regulated metals property, in its original and undamaged condition, in addition to any costs which are, or would be, incurred in repairing or in the attempt to recover any property damaged in the theft or removal of such regulated metal property, is in an aggregate amount which exceeds $500.00, in which case such person shall be guilty of a felony and, upon conviction, shall be punished by a fine of not more than $5,000.00 or by imprisonment for not less than one nor more than five years, or both.

(b) Any secondary metals recycler knowingly and intentionally engaging in any practice which constitutes a violation of this article shall be guilty of a misdemeanor unless the value of the regulated metals property, in its original and undamaged condition, in addition to any costs which are, or would be, incurred in repairing or in the attempt to recover any property damaged in the theft or removal of such regulated metal property, is in an aggregate amount which exceeds $500.00, such secondary metals recycler shall be guilty of a felony and, upon conviction, shall be punished by a fine of not more than $5,000.00 or by imprisonment for not less than one nor more than five years, or both."

SECTION 3.

Said article is further amended by adding a new Code section to read as follows:

"10-1-358.

The General Assembly finds that this article is a matter of state-wide concern. This article supersedes and preempts all rules, regulations, codes, ordinances, and other laws adopted by any county, municipality, consolidated government, or other local governmental agency regarding the sale or purchase of regulated metal property."

SECTION 4.

Code Section 16-8-12 of the Official Code of Georgia Annotated, relating to penalties for violation of Code Sections 16-8-2 through 16-8-9, is revised in subsection (a) by striking "or" at the end of paragraph (7), by replacing the period with "; or" at the end of paragraph (8), and by adding a new paragraph to read as follows:

"(9) Notwithstanding the provisions of paragraph (1) of this subsection, if the property of the theft was ferrous metals or regulated metal property, as such terms are defined in Code Section 10-1-350, and the aggregate amount of such property, in its original and undamaged condition, exceeds $500.00, by imprisonment for not less than one nor more than five years, a fine of not more than $5,000.00, or both."

SECTION 5.

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

Approved May 29, 2007.

MOTOR VEHICLES – STATE GOVERNMENT – COMMERCIAL MOTOR VEHICLE; LOTTERY VEHICLE EXCEPTION; LICENSE PLATES; CERTIFICATES OF TITLE; STATE VEHICLES; SEALS OR DECALS.

No. 346 (House Bill No. 518).

AN ACT

To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, so as to provide for a definition of a commercial motor vehicle; to provide for an exception for motor vehicles used by Georgia Lottery Corporation employees from registration and licensing provisions applicable to state vehicles; to provide for expiration of license plates issued to manufacturers, distributors, and dealers; to provide for annual and staggered registration by dealers, manufacturers, and transporters; to provide for the suspension or revocation of commercial motor vehicles when not in compliance with federal safety regulations; to provide for fees; to change the time limit for registration applications from 90 to 30 days; to provide for cancellation of certificates of title for vehicles designated for scrap metal or to be dismantled or demolished; to amend Code Section 50-19-2 of the Official Code of Georgia Annotated, relating to the prohibition against operating a state vehicle without a seal or decal affixed to the front door, so as to exempt vehicles operated by the Georgia Lottery Corporation; to provide for applicability; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended in Code Section 40-1-1, relating to definitions, by adding a new paragraph to read as follows:

"(8.3) 'Commercial motor vehicle' means any self-propelled or towed motor vehicle used on a highway in intrastate and interstate commerce to transport passengers or property when the vehicle:

(A) Has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight of 4,537 kg (10,001 lbs.) or more;

(B) Is designed or used to transport more than eight passengers, including the driver, for compensation;

(C) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(D) Is used to transport material determined to be hazardous by the secretary of the United States Department of Transportation under 49 U.S.C. Section 5103 and transported in a quantity that requires placards under regulations prescribed under 49 C.F.R., Subtitle B, Chapter I, Subchapter C."

SECTION 2.

Said title is further amended in Code Section 40-2-37, relating to registration and licensing of vehicles of state and political subdivisions, by revising subsections (a) and (b) as follows:

"(a) All vehicles of the type required to be registered by Code Section 40-2-20 owned by the State of Georgia or any municipality or other political subdivision of this state and used exclusively for governmental functions, except those employed in secret investigatory police functions to which regular Georgia license plates are issued, and except for those assigned for the transportation of employees of the Georgia Lottery Corporation to which regular Georgia license plates are issued, shall be registered with the commissioner by the fiscal officers or other proper officials of the respective departments and agencies of the state, municipality, or political subdivision to which such vehicles belong prior to operation and use thereof. Such registration shall be made upon forms prescribed and prepared by the commissioner for such purpose and shall contain a brief description of the vehicle to be registered; its name and model; the name of the manufacturer; the manufacturer's vehicle identification number; the department, agency, political subdivision, or branch thereof to which such vehicle is to be registered; and such other information as to use and identity as the commissioner may require. Upon the filing of the properly executed application for registration, the commissioner, upon being satisfied that such vehicle is bona fide owned by the state or a municipality or political subdivision thereof and is to be used exclusively for governmental functions, shall issue, upon payment by such applicant of a license fee of $3.00, a license plate which shall be displayed upon such vehicle in the same manner as provided for private vehicles. The license fee, less the actual

manufacturing cost of the plates which will be retained by the department, shall be deposited in the general fund of the state treasury. Such license plates shall be replaced at such time as other license plates issued for private vehicles are required to be replaced.

(b) For all vehicles owned by the State of Georgia or any municipality or other political subdivision of this state, except those vehicles employed in covert or secret investigatory police functions to which regular Georgia license plates are issued, those assigned for the transportation of employees of the Georgia Lottery Corporation to which regular Georgia license plates are issued, and those vehicles owned by the Department of Public Safety, the commissioner shall provide for registration and issuance of regular license plates for such vehicles. The license plates issued pursuant to this subsection shall be identical in appearance to regular license plates issued for private vehicles, except that such license plates shall not display any registration expiration. Such license plates may be transferred as provided for in subsection (d) of this Code section. Such license plates shall be issued at the time the vehicle is purchased by the state."

SECTION 3.

Said title is further amended in Code Section 40-2-38, relating to registration and licensing of manufacturers, distributors, and dealers, by revising paragraph (1) of subsection (a) as follows:

"(a)(1) Manufacturers, distributors, and dealers engaged in the manufacture, sale, or leasing of vehicles required to be registered under Code Section 40-2-20 shall register with the commissioner, making application for a distinguishing dealer's number, specifying the name and make of motor vehicle, tractor, or trailer manufactured, sold, or leased by them, upon forms prepared by the commissioner for such purposes, and pay therefor a fee of $62.00, which shall accompany such application. Upon payment of such fee by a dealer, the commissioner shall furnish to the dealer one master number plate to expire each year in accordance with subsection (f) of this Code section, to be known as a dealer's number and to be distinguished from the number plates provided for in this chapter by different and distinguishing colors to be determined by the commissioner. The dealer plate for a franchise motor vehicle dealer shall be distinguishable from the dealer plate for a used car dealer and from the dealer plate for a motor vehicle wholesaler. A dealer's number plate is for the purpose of demonstrating or transporting dealer's vehicles or trailers for sale or lease. Persons engaged in the business of transporting vehicles for a dealer under a vehicle's own power shall be permitted to use such dealer's plate for the purpose of transporting a vehicle."

SECTION 4.

Said title is further amended in said Code section by adding two new subsections to read as follows:

"(f)(1) The expiration of a license plate issued pursuant to this Code section shall be the last day of the registration period as provided in division (a)(1)(A)(ii) of Code Section

40-2-21, except that for the purposes of this subsection, the registration period shall be determined by the first letter of the legal name of the business listed on the application for registration or renewal of registration. An application for renewal of registration shall not be submitted earlier than 90 days prior to the last day of the registration period. A penalty of 25 percent of the total registration fees due shall be assessed any person registering pursuant to this Code section who, prior to the expiration of such person's registration period, fails to apply for renewal or if having applied fails to pay the required fees.

(2) A transition period shall commence on October 1, 2007, and conclude on December 31, 2007, for all existing registrations and any new registration applications presented prior to January 1, 2008. On or after January 1, 2008, new applications for registration shall be submitted and remain valid until the expiration of such registration as specified in paragraph (1) of this subsection.

(g) The commissioner shall adopt rules and regulations for the implementation of this Code section."

SECTION 5.

Said title is further amended in Code Section 40-2-38.1, relating to transporter license plates, by adding two new subsections to read as follows:

"(i)(1) The expiration of a license plate issued pursuant to this Code section shall be the last day of the registration period as provided in division (a)(1)(A)(ii) of Code Section 40-2-21, except that for the purposes of this subsection, the registration period shall be determined by the first letter of the legal name of the business listed on the application for registration or renewal of registration. An application for renewal of registration shall not be submitted earlier than 90 days prior to the last day of the registration period. A penalty of 25 percent of the total registration fees due shall be assessed any person registering pursuant to this Code section who, prior to the expiration of such person's registration period, fails to apply for renewal or if having applied fails to pay the required fees.

(2) A transition period shall commence on October 1, 2007, and conclude on December 31, 2007, for all existing registrations and any new registration applications presented prior to January 1, 2008. On or after January 1, 2008, new applications for registration shall be submitted and remain valid until the expiration of such registration as specified in paragraph (1) of this subsection.

(j) The commissioner shall adopt rules and regulations for the implementation of this Code section."

SECTION 6.

Said title is further amended in Article 6 of Chapter 2, relating to administration and enforcement of chapter, by adding a new Code section to read as follows:

"40-2-138.

Any vehicle which is prohibited by any federal agency acting pursuant to federal law, rule, or regulation from being operated in intrastate commerce shall not be eligible for registration under this article, and the commissioner shall suspend or revoke such registration for any vehicle so prohibited from operating."

SECTION 7.

Said title is further amended in subsection (a) of Code Section 40-2-151, relating to annual license fees for operation of vehicles and permanent licensing of certain trailers, by revising paragraphs (1) through (11) as follows:

"(1) For each passenger motor vehicle not operated as a common or contract carrier for hire..... $ 20.00

(2) For each motorcycle..... 20.00

(3)(A) For each private commercial motor vehicle in accordance with the owner declared gross vehicle weight rating, as follows:

(i) 10,001 lbs. to 14,000 lbs. 20.00

(ii) 14,000 to 18,000 lbs. 25.00

(iii) 18,001 to 26,000 lbs. 38.00

(iv) 26,001 to 30,000 lbs. 45.00

(v) 30,001 to 36,000 lbs. 70.00

(vi) 36,001 to 44,000 lbs. 115.00

(vii) 44,001 to 54,999 lbs. 190.00

(viii) 55,000 to 63,280 lbs. 300.00

(ix) 63,281 lbs. to maximum permitted..... 400.00

(B) Subparagraph (A) of this paragraph notwithstanding:

(i) A straight truck which is not a truck-tractor shall not be classified higher than $75.00;

(ii) A straight truck hauling fertilizer or agricultural products shall not be classified higher than $31.00; and

(iii) A truck-tractor hauling fertilizer, milk, or crops as defined in paragraph (7.1) of Code Section 1-3-3 shall not be classified higher than $220.00;

(4) For each farm truck. 20.00

(5) Except as otherwise specifically provided in this Code section, for each private trailer. 20.00

(6)(A) For each farm trailer including, but not limited to, horse and cattle trailers, the maximum fee shall be $12.00.

(B) There shall be no fee for trailers:

(i) Used exclusively to haul agricultural products from one place on the farm to another or from one farm or field to another;

(ii) With no springs which are being employed in hauling unprocessed farm products to their market destination; and

(iii) With no springs which are pulled from a tongue and used primarily to transport fertilizer to the farm;

(7) For house trailers, auto trailers, and boat trailers, whether pulled by a private automobile or a private truck, and not used as or in connection with a motor vehicle, truck, or tractor used as a common or contract carrier for hire. 12.00

(8) For trailers used as or in connection with a motor vehicle, truck, or tractor used as a common or contract carrier for hire. 12.00

(9) For each motor bus or van-type vehicle used as a common or contract carrier for hire in public transportation transporting passengers, the following:

(A) Weighing 10,000 pounds or less, $1.90 per 100 pounds factory weight or fractional part of 100 pounds factory weight;

(B) Weighing more than 10,000 pounds and not over 15,000 pounds factory weight, $2.75 for each 100 pounds or fractional part of 100 pounds factory weight;

(C) Weighing more than 15,000 pounds and not more than 20,000 pounds factory weight, $3.45 for each 100 pounds or fractional part of 100 pounds factory weight; and

(D) Weighing more than 20,000 pounds factory weight, $3.75 for each 100 pounds or fractional part of 100 pounds factory weight. No motor bus license fee shall exceed $875.00;

(10)(A) For each commercial motor vehicle operated as a common or contract carrier for hire in accordance with owner declared gross vehicle weight rating, as follows:

(i) 10,001 lbs. to 14,000 lbs.	20.00
(ii) 14,000 to 18,000 lbs.	25.00
(iii) 18,001 to 26,000 lbs.	38.00
(iv) 26,001 to 30,000 lbs.	85.00
(v) 30,001 to 36,000 lbs.	130.00
(vi) 36,001 to 44,000 lbs.	215.00
(vii) 44,001 to 54,999 lbs.	365.00
(viii) 55,000 to 63,280 lbs.	575.00
(ix) 63,281 lbs. to maximum permitted	725.00

(B) Subparagraph (A) of this paragraph notwithstanding, a straight truck which is not a truck-tractor shall not be classified higher than $150.00;

(11) For each commercial motor vehicle leased to a common or contract carrier without regard to the duration of the lease and in accordance with the gross vehicle weight rating, the same license fees as required under paragraph (10) of this Code section;"

SECTION 8.

Said title is further amended in Code Section 40-3-21, relating to application for first certificate of title, by revising the introductory language of subsection (a) and paragraph (2) of subsection (b) as follows:

"(a) The application for the first certificate of title of a vehicle in this state shall be made by the owner to the commissioner or the commissioner's duly authorized county tag agent on the prescribed form. Except as provided in subsection (b) of this Code section, the application must be submitted to the commissioner or the appropriate authorized county tag agent by the owner of the vehicle within 30 days from the date of purchase of the vehicle or from the date the owner is otherwise required by law to register the vehicle in this state. If the owner does not submit the application within that time, the owner of the vehicle shall be required to pay a penalty of $10.00 in addition to the ordinary title fee provided for by this chapter. If the documents submitted in support of the title application are rejected, the party submitting the documents shall have 60 days from the date of rejection to resubmit the documents required by the commissioner or the authorized county

tag agent for the issuance of a certificate of title. Should the documents not be properly resubmitted within the 60 day period, there shall be an additional $10.00 penalty assessed, and the owner of the vehicle shall be required to remove immediately the license plate of the vehicle and return same to the commissioner or the authorized county tag agent. The license plate shall be deemed to have expired at 12:00 Midnight of the sixtieth day following the initial rejection of the documents submitted, if the documents have not been resubmitted as required under this subsection. Such application shall contain:"

"(2) If the application refers to a vehicle purchased from a dealer, it shall contain the name and address of the holder of any security interest created or reserved at the time of the sale by the dealer. The application shall be signed by the owner and, unless the dealer's signature appears on the certificate of title or manufacturer's statement of origin submitted in support of the title application, the dealer, provided that as an alternative to a handwritten signature, the commissioner may authorize use of a digital signature as long as appropriate security measures are implemented which assure security and verification of the digital signature process, in accordance with regulations promulgated by the commissioner. The dealer shall promptly mail or deliver the application to the commissioner or the county tag agent of the county in which the seller is located, of the county in which the sale takes place, of the county in which the vehicle is delivered, or of the county wherein the vehicle owner resides so as to have the application submitted to the commissioner or such authorized county tag agent within 30 days from the date of the sale of the vehicle. If the application is not submitted within that time, the dealer, or in nondealer sales the transferee, shall be required to pay a penalty of $10.00 in addition to the ordinary title fee paid by the transferee provided for in this chapter. If the documents submitted in support of the title application are rejected, the dealer submitting the documents shall have 60 days from the date of initial rejection to resubmit the documents required by the commissioner or authorized county tag agent for the issuance of a certificate of title. Should the documents not be properly resubmitted within 60 days, there shall be an additional penalty of $10.00 assessed against the dealer. The willful failure of a dealer to obtain a certificate of title for a purchaser shall be grounds for suspension or revocation of the dealer's state issued license and registration for the sale of motor vehicles."

SECTION 9.

Said title is further amended in Code Section 40-3-32, relating to transfers of vehicles, by revising subsection (b) as follows:

"(b) Except as provided in Code Section 40-3-33, the transferee, promptly after delivery to him of the vehicle and certificate of title, shall execute the application for a new certificate of title on the form the commissioner prescribes and cause the application and the certificate of title to be mailed or delivered to the commissioner or his appropriate authorized county tag agent together with the application for change of registration for the vehicle, so that the title application shall be received within 30 days from the date of the

transfer of the vehicle. If the title application is not received within that time, the owner shall be required to pay a penalty of $10.00 in addition to the ordinary title fee provided for by this chapter. If the documents submitted in support of the title application are rejected, the party submitting the documents shall have 60 days from the date of initial rejection to resubmit the documents required by the commissioner for the issuance of title. If the documents are not properly resubmitted within 60 days, there shall be an additional $10.00 penalty assessed, and the owner of the vehicle shall be required to remove immediately the license plate of the vehicle and return same to the commissioner. The license plate shall be deemed to have expired at 12:00 Midnight of the sixtieth day following the initial rejection of the documents, if the documents have not been resubmitted as required under this subsection."

SECTION 10.

Said title is further amended in Code Section 40-3-33, relating to transfer of vehicle to or from dealer and records to be kept by dealers, by revising subsection (c) as follows:

"(c) Except as otherwise provided for in subsection (c) of Code Section 40-3-32, the dealer shall submit a properly completed certificate of title application and proper supporting documents to the commissioner or to the appropriate authorized county tag agent so that the application and supporting documents shall be submitted to the commissioner or the appropriate authorized county tag agent within 30 days from the date of the transfer of the vehicle. If the application and supporting documents are not submitted within that time, the dealer shall be required to pay a penalty of $10.00 in addition to the ordinary title fee as provided by this chapter. If the documents submitted in support of the title application are rejected, the dealer submitting the documents shall have 60 days from the date of initial rejection to resubmit the documents required by the commissioner for the issuance of title. If the documents are not properly resubmitted within 60 days, there shall be an additional penalty of $10.00 assessed against the dealer. The willful failure of a dealer to obtain a certificate of title for a purchaser shall be grounds for suspension or revocation of the dealer's state issued license and registration for the sale of motor vehicles."

SECTION 11.

Said title is further amended in Code Section 40-3-34, relating to transfer of vehicle by operation of law, by revising subsections (a) and (b) as follows:

"(a) If the interest of an owner in a vehicle passes to another other than by voluntary transfer, the transferee shall, except as provided in subsection (b) of this Code section, mail or deliver to the commissioner or his appropriate authorized county tag agent the last certificate of title, if available; proof of the transfer; and his application for a new certificate in the form the commissioner prescribes, together with the application for change of registration for the vehicle so that the title application and other documents shall be received by the commissioner or his appropriate authorized county tag agent no later than 30 days from the date that the transferee acquired the interest in the vehicle. If the title

application and other documents are not received within that time, the transferee shall be required to pay a penalty of $10.00 in addition to the ordinary title fee provided for by this chapter. If the documents submitted in support of the title application are rejected, the party submitting the documents shall have 60 days from the date of initial rejection to resubmit the documents required by the commissioner for the issuance of title. Should the documents not be properly resubmitted within the 60 day period, there shall be an additional $10.00 penalty assessed, and the owner of the vehicle shall be required to remove immediately the license plate of the vehicle and return same to the commissioner. The license plate shall be deemed to have expired at 12:00 Midnight of the sixtieth day following the initial rejection of the documents, if the documents have not been resubmitted as required in this subsection. If the last certificate of title is not available for transfer under this Code section, then the transferee shall forward such proof of transfer as the commissioner may by regulation prescribe.

(b) If the interest of the owner is terminated, whether the vehicle is sold pursuant to a power contained in a security agreement or by legal process at the instance of the holder either of a security interest or a lien, the transferee shall promptly mail or deliver to the commissioner or his appropriate authorized county tag agent the last certificate of title, if available; proof of transfer; his application for a new certificate, in the form prescribed by the commissioner; and an affidavit made by or on behalf of the holder of a security interest in or lien on the vehicle with respect to the termination of the interest of the owner, so as to have the application and supporting documents submitted to the commissioner or his appropriate authorized county tag agent within 30 days from the date the transferee acquired the interest in the vehicle. If the application and supporting documents are not submitted within that time, the transferee shall be required to pay a penalty of $10.00 in addition to the ordinary title fee prescribed by this chapter. If the documents submitted in support of the title application are rejected, the transferee submitting the documents shall have 60 days from the date of initial rejection to resubmit the documents required by the commissioner for the issuance of title. If the documents are not properly resubmitted within 60 days, there shall be an additional $10.00 penalty assessed, and the owner of the vehicle shall be required to remove immediately the license plate of the vehicle and return same to the commissioner. The license plate shall be deemed to have expired at 12:00 Midnight of the sixtieth day following the initial rejection of the documents, if the documents have not been resubmitted as required under this subsection. If the holder of a security interest or lien succeeds to the interest of the owner and holds the vehicle for resale, he need not secure a new certificate of title but, upon transfer, shall promptly deliver to the transferee the last certificate of title, if available, and such other documents as the commissioner may require by rule or regulation."

SECTION 12.

Said title is further amended in Code Section 40-3-36, relating to cancellation of certificate of title for scrap, dismantled, or demolished vehicles, by revising paragraph (1) of subsection (a) as follows:

"(a)(1) Any registered owner or authorized agent of a registered owner who in any manner sells or disposes of any vehicle as scrap metal or parts only or who scraps, dismantles, or demolishes a vehicle shall within 72 hours mail or deliver the certificate of title to the commissioner for cancellation."

SECTION 13.

Code Section 50-19-2 of the Official Code of Georgia Annotated, relating to the prohibition against operating a state vehicle without a seal or decal affixed to the front door, is amended by revising it in its entirety as follows:

"50-19-2.

(a) It shall be unlawful for any person to operate on any public road in this state any motor vehicle which is owned or leased by the state or any branch, department, agency, commission, board, or authority of the state or which has been purchased or leased by any public official or public employee with state funds, unless there is affixed to the front door on each side of such vehicle a clearly visible decal or seal containing the name of or otherwise identifying the governmental entity owning or leasing such vehicle or on behalf of which entity funds were expended to purchase or lease such vehicle. This Code section shall not apply to any vehicle used for law enforcement or prosecution purposes or any vehicle assigned for the transportation of the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the executive head of any department of state government, the chancellor of the University System of Georgia, the Chief Justice of the Supreme Court of Georgia, any constitutional state official who is elected by the voters of the entire state, or any employees of the Georgia Lottery Corporation.

(b) Any person violating the provisions of subsection (a) of this Code section shall be guilty of a misdemeanor."

SECTION 14.

Sections 2, 3, 4, 5, and 13 through 15 of this Act shall become effective July 1, 2007. Sections 1, 6, 7, and 12 of this Act shall become effective January 1, 2008. Sections 8, 9, 10, and 11 of this Act shall become effective July 1, 2008.

SECTION 15.

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

Approved May 29, 2007.

CRIMINAL PROCEDURE – INSANITY AND MENTAL INCOMPETENCY; EVALUATION; CIVIL COMMITMENT.

No. 348 (Senate Bill No. 190).

AN ACT

To amend Part 2 of Article 6 of Chapter 7 of Title 17 of the Official Code of Georgia Annotated, relating to issues of insanity and mental incompetency in pretrial proceedings, so as to provide for definitions; to provide that the committing court may have discretion to allow evaluation in the community for certain defendants; to provide that the committing court can order an evaluation of the defendant; to provide for the committing court to conduct a civil commitment hearing on the defendant; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 2 of Article 6 of Chapter 7 of Title 17 of the Official Code of Georgia Annotated, relating to issues of insanity and mental incompetency in pretrial proceedings, is amended by revising Code Section 17-7-130, relating to proceedings upon a plea of mental incompetency to stand trial, as follows:

"17-7-130.

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

(1) 'Committing court' means the court which has jurisdiction over the criminal charges against the defendant.

(2) 'Inpatient' shall have the same meaning as in paragraph (9.1) of Code Section 37-3-1.

(3) 'Nonviolent offense' means any offense other than:

(A)(i) Murder;

(ii) Rape;

(iii) Aggravated sodomy;

(iv) Armed robbery;

(v) Aggravated assault;

(vi) Hijacking of a motor vehicle or an aircraft;

(vii) Aggravated battery;

(viii) Aggravated sexual battery;

(ix) Aggravated child molestation; or

(x) Aggravated stalking;

(xi) Arson in the first degree and in the second degree;

(xii) Stalking;

(xiii) Fleeing and attempting to elude a police officer;

(xiv) Any sexual offense against a minor; or

(xv) Any offense which involves the use of a deadly weapon or destructive device; and

(B) Those felony offenses deemed by the committing court to involve an allegation of actual or potential physical harm to another person.

(4) 'Outpatient' shall have the same meaning as in paragraph (12.1) of Code Section 37-3-1, provided that the court determines that the defendant meets the criteria for release on bail or other pre-trial release pursuant to Code Section 17-6-1.

(b) Whenever a plea is filed that a defendant in a criminal case is mentally incompetent to stand trial, it shall be the duty of the court to cause the issue of the defendant's mental competency to stand trial to be tried first by a special jury. If the special jury finds the defendant mentally incompetent to stand trial, the court shall retain jurisdiction over the defendant but shall transfer the defendant to the Department of Human Resources; provided, however, that if the defendant is charged with a misdemeanor offense other than as included in subparagraph (A) of paragraph (3) of subsection (a) of this Code section or a nonviolent offense, the court may, in its discretion, retain jurisdiction over the defendant, and may allow evaluation to be done on an outpatient basis by the Department of Human Resources. If the court allows outpatient evaluation and the defendant is in custody, the court may release the defendant in accordance with the provisions of Code Section 17-6-1, et.seq.

(c) Within 90 days after the Department of Human Resources has received actual custody of a defendant or, in the case of an outpatient, a court order requiring evaluation of a defendant pursuant to subsection (b) of this Code section, the defendant shall be evaluated and a diagnosis made as to whether the defendant is presently mentally incompetent to stand trial and, if so, whether there is a substantial probability that the defendant will attain mental competency to stand trial in the foreseeable future. If the defendant is found to be mentally competent to stand trial, the department shall immediately report that finding and the reasons therefor to the committing court; and the defendant shall be returned to the court as provided for in subsection(f) of this Code section.

(d) If the defendant is found to be mentally incompetent to stand trial by the Department of Human Resources and there is not a substantial probability that the person will attain competency in the foreseeable future, the department shall return the physical custody of the defendant to a law enforcement officer of the jurisdiction of the court which committed the defendant unless in the opinion of the department's attending physician, and with concurrence of the court, such detention by law enforcement would be detrimental to the well-being of the defendant, in which case the defendant may be held by the department until the date of the defendant's hearing. The department shall report to the committing court the finding regarding competency, the reasons therefor, and its opinion as to whether the defendant currently meets criteria for commitment as an inpatient or as an outpatient pursuant to Chapters 3 or 4 of Title 37. The law enforcement officer of the jurisdiction of

the court which committed the defendant shall retain custody of the defendant and the committing court may order an independent evaluation of the defendant by a court appointed licensed clinical psychologist or psychiatrist, who shall report to the court in writing as to the current mental and emotional condition of the defendant. Based on consideration of all evidence and all reports, the committing court may:

(1) Refer the case to the probate court for commitment proceedings pursuant to Chapter 3 or 4 of Title 37, if appropriate and if the charges are dismissed for any reason; or

(2) Retain jurisdiction of the defendant and conduct a hearing at which it shall hear evidence and consider all psychiatric and psychological reports submitted to the court and determine whether the state has proved by clear and convincing evidence that the defendant meets the criteria for involuntary civil commitment as an inpatient or as an outpatient pursuant to Chapter 3 or 4 of Title 37, whichever is applicable. The burden of proof in such hearings shall be upon the state.

(A) If the defendant does not meet the criteria for inpatient or outpatient civil commitment, the defendant shall be released in accordance with the provisions of Code Section 17-6-1 et. seq.

(B) If the defendant is found to meet the criteria for involuntary civil commitment as an inpatient or outpatient, the judge may issue an order committing the defendant.

(i) If the defendant so committed is charged with a misdemeanor offense, the committing court may civilly commit the defendant for a period not to exceed one year. Following the commitment period, the charges against the defendant shall be dismissed by operation of law.

(ii) A defendant who is so committed and is charged with a felony may only be released from that inpatient or outpatient commitment by order of the committing court in accordance with the procedures specified in paragraphs (1) through (3) of subsection (f) of Code Section 17-7-131 except that the burden of proof in such release hearing shall be on the state and if the committed person cannot afford a physician or licensed clinical psychologist of the defendant's choice, the person may petition the court and the court may order such cost to be paid by the county.

The Department of Human Resources shall report annually to the committing court on whether the civilly committed defendant continues to meet criteria for involuntary commitment as an inpatient or an outpatient pursuant to Chapter 3 or 4 of Title 37. The committing court shall review the case and enter an appropriate order, either to renew the inpatient or outpatient civil commitment, to change the commitment either from inpatient to outpatient or from outpatient to inpatient, or in the event charges are dismissed, transfer the jurisdiction of the case to the probate court for further proceedings pursuant to Title 37, if appropriate.

(c) If the defendant is found to be mentally incompetent to stand trial but there is a substantial probability that the person will attain competency in the foreseeable future, by the end of the 90 day period, or at any prior time, the department shall report that finding and the reasons therefor to the committing court and shall retain custody over the defendant

for the purpose of continued treatment for an additional period not to exceed nine months; provided, however, that if the defendant is charged with a misdemeanor offense or a nonviolent offense, the court shall retain jurisdiction over the defendant, but may, in its discretion, allow continued treatment to be done on an outpatient basis by the Department of Human Resources. The department shall monitor the defendant's outpatient treatment for an additional period not to exceed nine months. If, by the end of the nine-month period or at any prior time if the defendant's condition warrants, the defendant is still found not to be competent to stand trial, irrespective of the probability of recovery in the foreseeable future, the department shall report that finding and the reasons therefor to the committing court. The committing court shall then follow the procedures in subsection (d) of this Code section for further commitment or release.

(f)(1) If the defendant found to be mentally incompetent to stand trial is at any time found by the Department of Human Resources to be mentally competent to stand trial, the committing court shall be notified. A defendant who is an inpatient and is found by the Department of Human Resources to be mentally competent to stand trial shall be discharged into the custody of a law enforcement officer of the jurisdiction of the court which committed the defendant to the department unless the charges which led to the commitment have been dismissed, in which case the defendant shall be discharged. In the event a law enforcement officer does not appear and take custody of the defendant within 20 days after notice to the appropriate law enforcement official in the jurisdiction of the committing court, the presiding judge of the committing court, and the prosecuting attorney for the court, the department shall itself return the defendant to one of the committing court's detention facilities; and the cost of returning the defendant shall be paid by the county in which the committing court is located. All notifications shall be sent by certified mail or statutory overnight delivery, return receipt requested. With the concurrence of the appropriate court and upon the recommendation of the department's attending physician, any defendant discharged as competent to stand trial may be held by the department instead of at the court's detention facilities whenever, in the attending physician's opinion, such detention in the court's facilities would be detrimental to the well-being of the defendant so committed. Such alternative detention shall continue only until the date of the defendant's trial.

(2)A defendant who is an outpatient and is found by the Department of Human Resources to be mentally competent to stand trial may remain in the community under conditions of bond or other conditions ordered by the committing court, if any, until the date of the person's trial.

(g) Any person found by the Department of Human Resources to be mentally competent to stand trial returned to the court as provided in subsection(f) of this Code section shall again be entitled to file a special plea as provided for in this Code section.

(h) If a defendant is found to be mentally incompetent to stand trial, whether or not committed pursuant to this Code section, the state may file at any time a motion for rehearing on the issue of the defendant's mental competency. The court shall grant said

motion upon a showing by the state that there are reasonable grounds to believe that the defendant's mental condition has changed. If this motion is granted, the case shall proceed as provided in subsection(b) of this Code section."

SECTION 2.

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

Approved May 29, 2007.

DOMESTIC RELATIONS – DEPARTMENT OF HUMAN RESOURCES; IMPOSE AND RETAIN FEES.

No. 350 (Senate Bill No. 42).

AN ACT

To amend Article 1 of Chapter 11 of Title 19 of the Official Code of Georgia Annotated, relating to the "Child Support Recovery Act," so as to authorize the Department of Human Resources to impose and retain certain fees on obligees and obligors with respect to certain child support collections; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 11 of Title 19 of the Official Code of Georgia Annotated, relating to the "Child Support Recovery Act," is amended in Code Section 19-11-6, relating to enforcement of child support payments and alimony for public assistance recipients, by adding new subsections to read as follows:

"(f) The department shall be authorized to charge the obligee a federal Deficit Reduction Act of 2005 fee of $12.00 to be paid at the rate of $1.00 per month after the IV-D agency has collected $500.00 of child support annually for each case. The department shall retain such fee and deduct such fee from child support collections before disbursement to the obligee. Such fee shall only apply to an obligee who has never received public assistance payments pursuant to Title IV-A or Title IV-E of the federal Social Security Act.

(g) The department shall be authorized to charge the obligor a federal Deficit Reduction Act of 2005 fee of $13.00 to be paid in 12 monthly installments after the IV-D agency has collected $500.00 of child support annually for each case. Such fee shall only apply to an obligor when the obligee has never received public assistance payments pursuant to Title

IV-A or Title IV-E of the federal Social Security Act. The department shall retain such fee and collect such fee through income withholding, as well as by any other enforcement remedy available to the IV-D agency responsible for child support enforcement."

SECTION 2.

Said article is further amended in Code Section 19-11-8 of the Official Code of Georgia Annotated, relating to the duty of the Department of Human Resources to enforce child support of an abandoned minor public assistance recipient, by adding new subsections to read as follows:

"(e) The department shall be authorized to charge the obligee a federal Deficit Reduction Act of 2005 fee of $12.00 to be paid at the rate of $1.00 per month after the IV-D agency has collected $500.00 of child support annually for each case. The department shall retain such fee and deduct such fee from child support collections before disbursement to the obligee. Such fee shall only apply to an obligee who has never received public assistance payments pursuant to Title IV-A or Title IV-E of the federal Social Security Act.

(f) The department shall be authorized to charge the obligor a federal Deficit Reduction Act of 2005 fee of $13.00 to be paid in 12 monthly installments after the IV-D agency has collected $500.00 of child support annually for each case. Such fee shall only apply to an obligor when the obligee has never received public assistance payments pursuant to Title IV-A or Title IV-E of the federal Social Security Act. The department shall retain such fee and collect such fee through income withholding, as well as by any other enforcement remedy available to the IV-D agency responsible for child support enforcement."

SECTION 3.

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

Approved May 29, 2007.

MOTOR VEHICLES – DISABLED VETERANS PLATES; SURVIVING SPOUSES; OTHER PRESTIGE OR SPECIAL PLATES.

No. 351 (Senate Bill No. 81).

AN ACT

To amend Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates and special plates for certain persons and vehicles, so as to allow surviving spouses of disabled veterans to continue to receive free disabled veterans

plates; to specify that certain existing license plates shall not be subject to the special tag renewal fee; to provide for new revenue-sharing license plates; to provide for a new nonrevenue-sharing license plate; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to prestige license plates and special plates for certain persons and vehicles, is amended by adding a new paragraph (4) to subsection (c) of Code Section 40-2-69, relating to free license plates for disabled veterans, as follows:

"(4) In the event of the death of the person who received the special license plates pursuant to this Code section, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles, his or her surviving spouse may continue to receive the free special license plates and revalidation decals until the death of the surviving spouse."

SECTION 2.

Said article is further amended by revising subsection (e) of Code Section 40-2-85.1, relating to special and distinctive license plates for veterans, as follows:

"(e) Special license plates issued under this Code section, except as provided in subparagraph (a)(2)(A) of this Code section, shall be renewed annually with a revalidation decal as provided in Code Section 40-2-31 without payment of an additional $25.00 annual registration fee. It shall be a requirement that a county name decal shall be affixed and displayed on license plates issued under this Code section."

SECTION 3.

Said article is further amended in Code Section 40-2-85.2, relating to special and distinctive license plates for veterans of the Chosin Reservoir Campaign of 1950, by revising subsection (e) as follows:

"(e) Special license plates issued under this Code section shall be renewed annually with a revalidation decal, as provided in Code Section 40-2-31, without payment of an additional $25.00 annual registration fee. Special license plates issued under this Code section shall be transferred between vehicles as provided in Code Section 40-2-80."

SECTION 4.

Said article is further amended in Code Section 40-2-86.21, relating to special license plates supporting beneficial projects, by revising subsections (a), (d), (e), (g), (h), (i), and (m) as follows:

"(a)(1) As used in this Code section, the term:

(A) 'Manufacturing fee' means a $25.00 fee paid at the time a metal special license plate is issued.

(B) 'Special tag renewal fee' means a $25.00 fee paid at the time a revalidation decal is issued for a special license plate.

(2) The General Assembly has determined that the issuance of special license plates to support an agency or fund or a program beneficial to the people of this state that is administered by a nonprofit corporation organized under Section 501(c)(3) of Title 26 of the Internal Revenue Code and dedicating a portion of the funds raised from the sale of these special license plates is in the best interests of the people of this state. Therefore, the special license plates listed in subsection(o) of this Code section shall be issued by the department beginning on July 1, 2007, if all of the requirements of subsections (b) through (k) of this Code section have been satisfied. The license plates listed in subsections (m) and (n) of this Code section shall continue to be issued so long as they meet the requirements of subsections (b), (c), (f), (g), (i), (j), and (k) of this Code section."

"(d) Beginning on January 1, 2007, any Georgia resident who is the owner of a motor vehicle, except a vehicle registered under the International Registration Plan, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles and upon the payment of the manufacturing fee and the special tag renewal fee in addition to the regular motor vehicle registration fee shall be able to apply for a special license plate listed in subsection(o) of this Code section. Revalidation decals shall be issued for special license plates in the same manner as provided for general issue license plates.

(e) The manufacturing fee and the special tag renewal fee derived from the sale of special license plates listed in subsection(o) of this Code section shall be apportioned as follows: $1.00 to the county tag agent, $2.00 to the department, $12.00 to be deposited into the general fund, and $10.00 to be dedicated to the sponsoring agency, fund, or nonprofit corporation as permitted by Article III, Section IX, Paragraph VI(n) of the Constitution."

"(g) An applicant may request a special license plate any time during the applicant's registration period. If such a license plate is to replace a current valid license plate, the special license plate if issued under subsection (m) of this Code section shall be issued with appropriate decals attached upon payment of the manufacturing fee but without payment of the special tag renewal fee. However, special license plates issued under subsections (n) and (o) of this Code section shall be issued with appropriate decals attached upon payment of the manufacturing fee and the special tag renewal fee.

(h) No special license plate authorized pursuant to subsection(o) of this Code section shall be issued except upon the receipt by the department of at least 1,000 applications. The special license plate shall have an application period of two years after the date on which the application period becomes effective for payment of the manufacturing fee. After such time if the minimum number of applications is not met, the department shall not continue to accept the manufacturing fee, and all fees shall be refunded to applicants.

(i) The department shall not be required to continue to manufacture the special license plate if the number of active registrations falls below 500 registrations at any time during the period provided for in subsection (b) of Code Section 40-2-31. A current registrant may continue to renew such special license plate during his or her annual registration period upon payment of the special tag renewal fee, if applicable, which shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34. The department may continue to issue such special license plates that it has in its inventory to assist in achieving the minimum number of registrations. If the special license plate falls below 500 active registrations at any time during the period provided for in subsection (b) of Code Section 40-2-31, the sponsoring agency, fund, or nonprofit corporation shall be required again to obtain 1,000 applications accompanied by the manufacturing fee to continue to manufacture the special license plate."

"(m)(1) The General Assembly has determined that the following existing special license plates supporting the agencies, funds, or nonprofit corporations listed in this subsection shall continue to be issued for the purposes indicated and that all of the funds raised from the manufacturing fee, less a $1.00 fee to be paid to the county tag agent and a $2.00 manufacturing fee to be paid to the department, shall be disbursed to the agency, fund, or nonprofit corporation indicated in this subsection. The special license plates listed in this subsection shall not be subject to a special tag renewal fee.

(2) Special license plates promoting the Nongame-Endangered Wildlife Program of the Georgia Department of Natural Resources. The funds raised by the sale of these special license plates shall be disbursed to the Nongame Wildlife Conservation and Wildlife Habitat Acquisition Fund of the Georgia Department of Natural Resources for the purposes enumerated in subsection (b) of Code Section 12-3-602. Such license plates shall not include a space for a county name decal but shall instead bear the legend 'Give Wildlife a Chance' in lieu of the name of the county of issuance.

(3) A special license plate promoting conservation and enhancement of trout populations. The funds raised by the sale of this special license plate shall be disbursed to the Wildlife Resources Division of the Department of Natural Resources to supplement trout restoration and management programs.

(4) A special license plate supporting the Bobwhite Quail Restoration Initiative. The funds raised by the sale of this special license plate shall be disbursed to the Wildlife Resources Division of the Department of Natural Resources to conduct programs designed to enhance the bobwhite quail population in this state. Such programs may include the creation of habitat demonstration areas on state managed wildlife lands, education programs, technical assistance to private landowners in the creation and maintenance of bobwhite quail habitats on their lands, and projects to encourage public support for the license plate and the activities it funds. The Department of Natural Resources may enter into such contractual agreements as may be appropriate to further the objectives of the Bobwhite Quail Restoration Initiative, including entering into

contractual agreements whereby private landowners, public agencies, or corporate entities create, preserve, or enhance habitat for bobwhite quail in return for the payment of incentives. Such license plate shall not include a space for a county decal but shall instead bear the legend 'Support Wildlife' in lieu of the name of the county of issuance.

(n)(1) The General Assembly has determined that the following special license plates supporting the agencies, funds, or nonprofit corporations listed in this subsection shall be issued for the purposes indicated and that all of the funds raised from the manufacturing fee and the special tag renewal fee, less a $1.00 fee to be paid to the county tag agent and a $2.00 manufacturing fee to be paid to the department, shall be disbursed to the agency, fund, or nonprofit corporation indicated in this subsection. The special license plates listed in this subsection shall be subject to a special tag renewal fee.

(2) A special license plate promoting the United States Disabled Athletes Fund, for the support of disabled athletes. The funds raised by the sale of this special license plate shall be disbursed to the United States Disabled Athletes Fund.

(3) A special license plate commemorating Civil War battlefields and historic sites. The funds raised by the sale of this special license plate shall be disbursed to the Civil War Commission for the acquisition of Civil War battlefields and associated Civil War historic sites in this state and for the maintenance, protection, and interpretation of the same as provided by Ga. L. 1993, p. 1952.

(4) A special license plate promoting historic preservation efforts. The funds raised by the sale of this special license plate shall be disbursed to the Department of Natural Resources for use by the Historic Preservation Division to fund historic preservation programs in the state through the Georgia historic preservation grant program as otherwise authorized by law.

(5) A special license plate promoting bicycle safety. The funds raised by the sale of this special license plate shall be disbursed to the Governor's Highway Safety Program administered by the Office of Highway Safety in the Department of Public Safety.

(6) A special license plate honoring families with a member serving in the military. The funds raised by the sale of this special license plate shall be disbursed to the Department of Veterans Service for use by the National Guard Foundation in carrying out such programs and purposes as may be contractually agreed upon by the department and the foundation.

(7) A special license plate promoting 'Support Georgia Troops.' The funds raised by the sale of this special license plate shall be disbursed to the Department of Veterans Service for use by the National Guard Foundation in carrying out such programs and purposes as may be contractually agreed upon by the department and the foundation.

(8) A special license plate promoting NASCAR. The provisions of paragraph (1) of this subsection notwithstanding, from the additional $25.00 fee charged for the issuance and renewal of the NASCAR license plates authorized under this paragraph, $10.25 shall be used by the department for purchasing plates from the supplier of the plates, as designated by NASCAR, and royalty costs, and $14.75 shall be disbursed to the

Governor's Highway Safety Program administered by the Office of Highway Safety in the Department of Public Safety."

SECTION 5.

Said article is further amended in said Code section by redesignating existing subsection (n) as subsection (o).

SECTION 6.

Said article is further amended in said Code section by revising paragraph (15) of and adding paragraphs to subsection (o), as redesignated in Section 2 of this Act, as follows:

"(15) A special license plate for pediatric cancer research. The funds raised by the sale of this special license plate shall be disbursed to the Joanna McAfee Childhood Cancer Foundation for support of pediatric cancer research. The design of the special license plate provided for in this paragraph shall include the words 'Joanna McAfee Childhood Cancer Foundation' horizontally across the bottom of the plate in lieu of the county name."

"(32) A special license plate promoting the arts in Georgia. The funds raised by the sale of this special license plate shall be disbursed to the Georgia Council for the Arts.

(33) A special license plate supporting programs for the treatment of autism. The funds raised by the sale of this special license plate shall be disbursed to the Department of Human Resources for the support of programs for the treatment of autism in Georgia.

(34) A special license plate honoring the work of The Garden Club of Georgia, Inc. The funds raised by the sale of this special license plate shall be disbursed to The Garden Club of Georgia, Inc., and used to fund scholarships that are awarded by the club.

(35) A special license plate promoting the Georgia Junior Golf Foundation. The funds raised by the sale of this special license plate shall be disbursed to the Georgia Junior Golf Foundation.

(36) A special license plate commemorating 100 years of scouting in the United States. The funds raised by the sale of this special license plate shall be disbursed to the Boy Scouts of America for the development of scouting programs.

(37) A special license plate supporting Cobb County Public Schools. The funds raised by the sale of this special license plate shall be disbursed to the Cobb County Public Schools Educational Foundation and used to fund educational programs, grants to teachers, and scholarships in the Cobb County Public School System."

SECTION 7.

Said article is further amended in Code Section 40-2-86.22, relating to special license plates that send proceeds to the general fund, by adding new paragraphs (5) and (6) to subsection (l) as follows:

"(5) A special license plate honoring Georgia municipal clerks. The municipal clerk's office provides the professional link connecting citizens with their local governing bodies

and agencies of government at other levels. The funds raised by the sale of this license plate shall be deposited in the general fund."

SECTION 8.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 9.

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

Approved May 29, 2007.

EDUCATION – STUDENT PLACEMENT;
TWINS OR OTHER MULTIPLES;
CLASS SIZE.

No. 352 (Senate Bill No. 123).

AN ACT

To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, so as to provide for requirements for placement of students in classrooms; to require that twins or other multiples are placed in the same classroom if the parent or guardian requests; to provide that each local board of education may set maximum class sizes for high school general education programs under certain conditions; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is amended by adding a new Code section to read as follows:

"20-2-71.

(a) For purposes of this Code section, the term 'higher order multiples' means triplets, quadruplets, quintuplets, or more.

(b) A school must place twins or higher order multiples from the same family together in the same classroom if the children are in the same grade level at the same school and meet the eligibility requirements of the class, and the children's parent or legal guardian requests the placement, unless factual performance evidence shows proof that these specific students

should be separated. The parent or guardian must request the classroom placement no later than 5 days before the first day of each school year or 5 days after the first day of attendance of the children during a school year if the children are enrolled in the school after the school year commences."

SECTION 2.

Said chapter is further amended in Code Section 20-2-182, relating to program weights, maximum class size, and reporting requirements, by revising paragraph (2) of subsection (i) as follows:

"(2) The State Board of Education shall adopt for each instructional program authorized pursuant to Part 3 of this article except those programs included in paragraph (1) of this subsection the maximum number of students which may be taught by a teacher in an instructional period. For the remedial education, vocational laboratory, alternative education, and early intervention programs, the State Board of Education shall provide for a system average maximum class size that shall not exceed the funding class size by more than 20 percent, unless specifically authorized by the State Board of Education; provided, further, that the system average maximum class size for special education, gifted, and English for speakers of other languages classes shall be set by the State Board of Education. For each instructional program covered under this paragraph, the maximum number of students who may be taught by a teacher in an instructional period shall not exceed the system average maximum class size for the program by more than two students; provided, however, that a system average maximum class size which results in a fractional full-time equivalent shall be rounded up to the nearest whole number; provided, however, that this provision shall not apply to general education programs in mathematics, science, social studies, and language arts for grades 9 through 12. Beginning with the 2007-2008 school year, each local board of education shall be allowed to exceed maximum class sizes set by the state board pursuant to this paragraph for general education programs in mathematics, science, social studies, and language arts for grades 9 through 12 and may establish such maximum class sizes that shall not exceed the funding class size by more than 39 percent and shall annually report to the state board and to each school council in its school system such class sizes established. For a period not to exceed seven years, beginning with the 2000-2001 school year, local school systems shall be allowed to exceed the maximum class sizes set forth in this subsection in a manner consistent with State Board of Education rules and subsection (k) of this Code section, except for those programs included in paragraph (1) of this subsection beginning with the 2006-2007 school year. The State Board of Education shall lower the current maximum class sizes set by state board rules in effect for the 1999-2000 school year, beginning with the 2000-2001 school year, by an amount so that, beginning with the 2007-2008 school year, State Board of Education rules are in compliance with this subsection; provided, however, that this shall not apply to the programs included in paragraph (1) of this subsection beginning with the 2006-2007 school year."

SECTION 3.

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

Approved May 29, 2007.

PUBLIC UTILITIES – GAS; CERTIFICATE REVOCATION.

No. 354 (House Bill No. 587).

AN ACT

To amend Article 2 of Chapter 4 of Title 46 of the Official Code of Georgia Annotated, relating to the distribution, storage, and sale of gas, so as to provide for revocation of a certificate of public convenience and necessity if the holder of the certificate has not begun construction or operation of any pipeline, or distribution system, or any extension thereof, in substantially all of the territory covered by such certificate where an end-use customer, property owner, or developer has requested natural gas service; to provide for related matters; to provide for applicability; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 4 of Title 46 of the Official Code of Georgia Annotated, relating to the distribution, storage, and sale of gas, is amended by adding a new subsection to Code Section 46-4-28, relating to the suspension, revocation, alteration, or amendment of certificates by the Public Service Commission, to read as follows:

"(a.1) Any certificate issued under this article shall be revoked or amended by the commission upon application to the commission by a person to provide natural gas service to a specified end-use customer, property owner, or developer who has requested natural gas service if the holder of the certificate has failed to begin construction or operation of any pipeline, or distribution system, or any extension thereof, in substantially all of the territory covered by such certificate. Once a person has filed such an application, the portion of the certificate of the territory for which the applicant is seeking to provide natural gas service to a specified end-use customer, property owner, or developer shall be deemed revoked or amended. The commission shall determine whether the applicant shall be entitled to a certificate for the territory that has been excluded from the certificate by revocation or amendment, whether such territory should be re-issued to the person who

held the certificate at the time of the application, or whether such territory shall be deemed uncertificated. The commission shall make such determination within 90 days of the application and shall consider, in addition to the factors set forth in subsection (a) of Code Section 46-4-25, whether the applicant can offer service in a timely manner, and such other factors the commission deems in the public interest. The commission in determining whether to reissue a certificate to the person who held the certificate at the time of the application shall consider the length of time the certificate was held without service being provided. The newly certificated area shall be designed by the commission to serve the customers, property owners, or developers in question while ensuring a boundary with safety and public welfare as the focus."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall apply to all certificates in effect or applied for on or after such date.

SECTION 3.

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

Approved May 29, 2007.

LOCAL GOVERNMENT – TAXICAB; CERTIFICATES AND MEDALLIONS.

No. 355 (House Bill No. 519).

AN ACT

To amend Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to general provisions applicable to counties and municipal corporations, so as to provide for legislative findings; to provide for the transferability of certificates of public necessity and convenience and medallions for taxicabs; to provide for certain uses of such certificates and medallions with regard to loans; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to general provisions applicable to counties and municipal corporations, is amended by adding a new Code Section 36-60-25 to read as follows:

"36-60-25.

(a) Each county and municipal corporation may require the owner or operator of a taxicab or vehicle for hire to obtain a certificate of public necessity and convenience or medallion in order to operate such taxicab or vehicle for hire within the unincorporated areas of the county or within the corporate limits of the municipal corporation, respectively, and may exercise its authority under Code Section 48-13-9 to require such owners or operators to pay a regulatory fee to the county or municipal corporation. The General Assembly finds and declares that any county or municipality exercising the powers granted in this Code section is legitimately concerned with the qualifications and records of drivers of taxicabs and other vehicles for hire; with the location, accessibility, and insured state of companies operating taxicabs and other vehicles for hire; and with the safety and comfort of taxicabs and other vehicles for hire. Without limitation, each such county or municipality may exercise the powers granted in this Code section by ordinance to the same extent as the ordinances reviewed by the Georgia Court of Appeals in the case of *Hadley v. City of Atlanta*, 232 Ga. App. 871, 875 (1998), and each certificate of public convenience and necessity issued under those ordinances shall remain in full force and effect.

(b) Each certificate of public necessity and convenience or medallion issued at any time by a county or municipal corporation shall be fully transferable pursuant to a purchase, gift, bequest, or acquisition of the stock or assets of a corporation to any person otherwise meeting the requirements of the applicable local ordinance. Each such certificate of public necessity and convenience or medallion may be used as collateral to secure a loan and each lending institution making such a loan shall have all rights of secured parties with respect to such loan."

SECTION 2.

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

Approved May 29, 2007.

PUBLIC UTILITIES – MOTOR COMMON CARRIER; LIMOUSINE CARRIER.

No. 357 (House Bill No. 389).

AN ACT

To amend Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public transportation, so as to change the definition of motor common carrier and limousine carrier; to provide that the Public Service Commission is not authorized to set, adjust, or change rates or charges for transportation of passengers or property by certain vehicles managed or operated by a limousine carrier; to provide that any existing tariff regulating such rates or charges is void; to provide for inclusion of the motor carrier authorization number in any advertising for a limousine carrier; to require commercial liability and indemnity insurance for limousine carriers; to provide for enforcement of such advertising and insurance requirements; to provide that the provisions and powers of the Public Service Commission relating to limousines shall apply to all vehicles of specified types that are managed or operated by limousine carriers; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public transportation, is amended by revising subparagraph (B) of paragraph (9) and division (9)(C)(xiii) of Code Section 46-1-1, relating to definitions relative to public utilities and public transportation, as follows:

"(B) 'Motor common carrier' means every person owning, controlling, operating, or managing any motor propelled vehicle, and the lessees, receivers, or trustees of such person, used in the business of transporting for hire of persons or property, or both, otherwise than over permanent rail tracks, on the public highways of Georgia as a common carrier. The term includes, but is not limited to, limousine carriers as defined in paragraph (5) of Code Section 46-7-85.1."

"(xiii) Vehicles, owned or operated by the federal or state government, or by any agency, instrumentality, or political subdivision of the federal or state government, or privately owned and operated for profit or not for profit, capable of transporting not more than ten persons for hire when such vehicles are used exclusively to transport persons who are elderly, disabled, en route to receive medical care or prescription medication, or returning after receiving medical care or prescription medication. For the purpose of this division, elderly and disabled persons shall have the same meaning as in division (iv) of this paragraph;"

SECTION 2.

Said title is further amended by revising paragraph (5) of Code Section 46-7-85.1, relating to definitions relative to limousine carriers, as follows:

"(5) 'Limousine carrier' means any person operating a prearranged service regularly rendered to the public by furnishing transportation as a motor common carrier for hire, not over fixed routes, by means of one or more unmetered:

(A) Limousines;

(B) Extended limousines;

(C) Sedans;

(D) Extended sedans;

(E) Sport utility vehicles;

(F) Extended sport utility vehicles;

(G) Other vehicles with a capacity for transporting no more than 10 persons for hire; or

(H) Any combination of subparagraphs (A) through (G) of this paragraph

on the basis of telephone contract or written contract. A limousine carrier shall not use per capita rates or charges."

SECTION 3.

Said title is further amended by revising Code Section 46-7-85.12, relating to tariffs of limousine carriers, as follows:

"46-7-85.12.

(a) Notwithstanding the powers granted to the commission regarding tariffs of other common carriers or contract carriers, the commission is not authorized to set, adjust, or change rates or charges for transportation of passengers, property, or passengers and property by a vehicle of a type listed in paragraph (5) of Code Section 46-7-85.1 that is managed, operated, owned, leased, rented, or controlled by a limousine carrier.

(b) Any tariff issued by the commission that exists as of June 30, 2007, that regulates the rates or charges for transportation of passengers, property, or passengers and property by a vehicle of a type listed in paragraph (5) of Code Section 46-7-85.1 that is managed, operated, owned, leased, rented, or controlled by a limousine carrier shall be void."

SECTION 4.

Said title is further amended by adding new Code sections to read as follows:

"46-7-85.18.

In any advertisement for a limousine carrier, whether by print, radio, television, other broadcast, or electronic media including but not limited to Internet advertising and any listing or sites on the World Wide Web, the limousine carrier shall include the motor carrier authorization number issued to it by the Public Service Commission.

46-7-85.19.
Each limousine carrier shall obtain and maintain commercial indemnity and liability insurance with an insurance company authorized to do business in this state which policy shall provide for the protection of passengers and property carried and of the public against injury proximately caused by the negligence of the limousine carrier, its servants, and its agents. The commission shall determine and fix the amounts of such insurance and shall prescribe the provisions and limitations of such insurance.

46-7-85.20.
The commission is authorized to enforce Code Sections 46-7-85.18 and 46-7-85.19 in accordance with the provisions of Code Section 46-7-90 and Article 5 of Chapter 2 of this title. Additionally, the commission may hear a petition by a third party asserting that a limousine carrier has violated Code Section 46-17-85.18 or 46-7-85.19 and may impose the penalties and seek the remedies set out in Code Section 46-7-90 and Article 5 of Chapter 2 of this title if the commission finds such a violation.

46-7-85.21.
The provisions of this article and the powers granted to the commission by this article to regulate limousines and limousine carriers shall apply to every vehicle of a type listed in paragraph (5) of Code Section 46-7-85.1 that is managed, operated, owned, leased, rented, or controlled by a limousine carrier."

SECTION 5.

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

Approved May 29, 2007.

GENERAL ASSEMBLY – REPEAL GEORGIA CRIMINAL JUSTICE IMPROVEMENT COUNCIL.

No. 359 (House Bill No. 220).

AN ACT

To amend Title 28 of the Official Code of Georgia Annotated, relating to the General Assembly, so as to repeal Chapter 8, relating to the Georgia Criminal Justice Improvement Council; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 28 of the Official Code of Georgia Annotated, relating to the General Assembly, is amended by repealing Chapter 8, relating to the Georgia Criminal Justice Improvement Council, and designating said chapter as reserved.

SECTION 2.

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

Approved May 29, 2007.

MULTIPLE DEDICATIONS OF STATE HIGHWAY SYSTEM.

No. 361 (House Resolution No. 171).

A RESOLUTION

Dedicating certain portions of the state highway system; and for other purposes.

PART I

WHEREAS, Cason and Virginia Callaway founded Callaway Gardens in 1952 to conserve the native flora and fauna of their beloved Pine Mountain region of Georgia; and

WHEREAS, almost 55 years later, millions of visitors have learned important concepts and practical measures to preserve the land, water, plants, and animals that surround us; and

WHEREAS, the Cason Callaway Memorial Forest on SR 116 West has recently been designated a federally protected forest legacy and the Callaways' log home on SR 116 West is on the Georgia Registry of Historic Homes; and

WHEREAS, President Franklin Roosevelt was a guest of the Callaways in their home and at Blue Springs, a natural cold spring that the Callaway family has kept in its natural state for almost 100 years; and

WHEREAS, to honor the Callaways' many contributions to keeping Georgia's Pine Mountain ecosystem preserved and open for all Georgians to enjoy, it is only fitting that a highway should be named in their honor.

PART II

WHEREAS, the veterans of service in the United States military have given of their time, energy, and sometimes their lives, to secure the blessings of freedom for all the citizens of this great country; and

WHEREAS, the sacrifices these great men and women have made to protect our nation should never be taken for granted or allowed to fade into distant memory; and

WHEREAS, it is only fitting that a lasting tribute to memorialize the unselfish patriotism of these special men and women should be created to perpetuate the memory of their great sacrifices to protect our freedom.

PART III

WHEREAS, Mr. C.C. Perkins, a native of Carroll County, was born on November 13, 1925, to Walter R. Perkins, Sr., and Bonnie Morris Perkins; and

WHEREAS, he was a Staff Sergeant in the United States Marine Corps and served his country during World War II in the Pacific Theater; and

WHEREAS, Mr. Perkins also served his state as a legislator at the age of 25; and

WHEREAS, Mr. Perkins was a lawyer who founded the Perkins Law Firm in 1952, and he built his practice by representing injured workers even though he could have made more money representing wealthier clients; and

WHEREAS, he was a member of the VFW and the American Legion and at one time was the manager of the Veteran's Service Center; and

WHEREAS, he was a member of the Northside Independent Methodist Church and a past member of the Carrollton Optimist Club; and

WHEREAS, although he was known as a fighter, he had a softer side that cried when the cat was run over and he could not bring himself to spank a child; and

WHEREAS, he lived a life that sets an example for all who follow in his footsteps.

PART IV

WHEREAS, Clint H. Bryant was born January 13, 1910, in a farmhouse on the road which was later to be known as Georgia Highway 2, and he lived in this house until his death on August 20, 2004, at the age of 94; and

WHEREAS, he was the son of Onie Evans and George Washington Bryant, who were among the pioneering families who settled northern Murray County in the middle to latter part of the 1800's, and the grandson of Joseph John Bryant, who once owned a large tract of land within the area, including several farms along the Conasauga River; and

WHEREAS, as a boy, Mr. Bryant became familiar with the Conasauga River and its crossing places, fishing and swimming in its waters and riding in the wagon across Wheat's Ford on his way to church; and

WHEREAS, as he grew, he learned to appreciate his family's legacy and connection with the surrounding fertile land and became a successful farmer, raising hogs and cattle and harvesting soy beans, corn, and cotton on his river bottom farm, which received the Georgia Centennial Farm award in 1993; and

WHEREAS, in the mid-1950's, Mr. Bryant donated nearly eight acres of his beloved farm as right of way for the building of Georgia Highway 2, and he allowed men from the road crew to stay in a house on his property and would regularly transport them to the store in Beaverdale for lunch; and

WHEREAS, he was sitting on the porch of the old Beaverdale store the day that the old bridge collapsed from the weight of road machinery, and he helped to transport an injured man to safety and volunteered to help retrieve machinery and parts from the river bed as part of a "rescue crew"; and

WHEREAS, in his later years, Mr. Bryant built a dock on the Conasauga River which became the very popular neighborhood swimming hole, now known as "Bryant's Bluff," and is used by the community, its churches, local Boy Scout troops, and 4-H groups for picnics, baptisms, family reunions, recreation, and community service projects; and

WHEREAS, throughout his life, Mr. Bryant was a good neighbor and friend who was the first to volunteer a helping hand to those in need and who provided generations of young farmers with careful and knowledgeable advice; and

WHEREAS, through his kindness and generosity, Mr. Bryant improved the quality of life for the citizens of his community and has left a lasting mark on the history of Murray County.

PART V

WHEREAS, Mr. Walter E. Elder III was born on November 26, 1938, in Barrow County, Georgia, the son of the late Ernest and Sadie Hill Elder; and

WHEREAS, he was a devoted son, husband, father, grandfather, and uncle, a church elder at Chapel Christian Church, and a member of the Georgia Army National Guard; and

WHEREAS, he served as chairman of the Barrow County Board of Commissioners from January, 1997, to the time of his death on February 6, 2004; and

WHEREAS, he was a dedicated citizen and leader of Barrow County, and he served the citizens well.

PART VI

WHEREAS, Mr. Tom Scott has long been recognized by the citizens of DeKalb County for the vital role he has played in leadership and his deep personal commitment to the welfare of the citizens of Georgia; and

WHEREAS, he faithfully represented the citizens of District 43 with utmost dedication and ability as a member of the Senate for eight years during which time he authored SB 372, the Act which made the birthday of Dr. Martin Luther King, Jr., a state holiday; and

WHEREAS, he has diligently and conscientiously devoted innumerable hours of his time, talents, and energy toward the betterment of his community and state as evidenced by his 14 years of superlative service as tax commissioner of DeKalb County; and

WHEREAS, in his capacity as tax commissioner, he was the epitome of forward thinking and modernization as he reshaped DeKalb's tax office into the most computerized and technologically advanced tax collection agency in this state; and

WHEREAS, his creative leadership and his thoughtful sensitivity on complex social and political matters, and especially his ability to work behind the scenes to build coalitions and consensus, functioning as the glue holding DeKalb County together in the face of divisive forces, received the approval and applause of his peers who held him in such high regard; and

WHEREAS, his significant organizational and leadership talents, his remarkable patience and diplomacy, his keen sense of vision, and his sensitivity to the needs of the citizens of his community have earned him the respect and admiration of his colleagues and associates; and

WHEREAS, he was a loving husband to his beloved wife, Jacquie, for 37 years, the devoted father of John-Thomas, Christopher, and Susannah, and grandfather of Parker; and

WHEREAS, he was a person of magnanimous strengths with a reputation for integrity, intelligence, fairness, and kindness, and it is only fitting and proper that an interchange should be named in his honor.

PART VII

WHEREAS, Mr. Edgar Stamey was well known and well respected in the Batesville community; and

WHEREAS, after spending his whole life in the Batesville area, he passed away in the fall of 2003; and

WHEREAS, he spent much of his time working as the caretaker of the Baptist church cemetery, and he also owned and operated the Batesville General Store; and

WHEREAS, Mr. Stamey and his wife helped to establish the Batesville Fire Department, and at the age of 70, he was the oldest person in the State of Georgia to earn firefighter certification; and

WHEREAS, he was the chaplain of the Batesville Fire Department from 1985 until his retirement in 1992; and

WHEREAS, this outstanding citizen lived a life of service to his church and his community and showed the way for others to give back to the communities in which they lived.

PART VIII

WHEREAS, news of the passing of Dr. Charles Emory Bohler, late of Bulloch County, is received with deep regret by this body; and

WHEREAS, the life led by this distinguished gentleman of 81 years rendered his name dear to the hearts of his family and many friends alike; and

WHEREAS, Dr. Bohler attended Register Elementary School and graduated from Register High School as valedictorian. He attended North Georgia College in Dahlonega, Birmingham Southern, and the University of Georgia and was a graduate of Georgia Southern College in 1950 and the Medical College of Georgia in 1954. Dr. Bohler began his family medical practice on July 1, 1955 in Brooklet; and

WHEREAS, he was a veteran of the United States Army Air Corps 20th Bomber Group, serving during WW II in the Pacific Theatre. He received a Purple Heart and Air Medal as a gunner on the B29 Bomber. Dr. Bohler was a member of the Brooklet United Methodist Church, a past chairman of the Administrative Board of the church and a member of the Jack

Lee Sunday School Class. He was a past president of the Brooklet Kiwanis Club and a member of the American Legion Post 90 and the Bulloch County Chamber of Commerce. He served as team physician for Southeast Bulloch High School and was elected to the SEB Athletic Hall of Fame. He was a member of the Sigma Chi Fraternity, Theta Kappa Psi Fraternity, Forest Heights Country Club, the Chatham Club, Amelia Island Plantation Club, 1906 Society, and the Georgia Southern University Athletic Boosters Club and was on the Georgia Southern Foundation Board of Directors; and

WHEREAS, Dr. Bohler was the recipient of the Deen Day Smith Service to Mankind Award in 1991 and the Deen Day Smith Lifetime Achievement Award in 1993. He had been on the medical staff of Bulloch Memorial Hospital since 1955 and was the first physician on the Bulloch Memorial Hospital Authority, a past president of the Ogeechee River Medical Society, past president of the Medical Association of Georgia, chairman of the Georgia Delegation to the American Medical Association, and a member of the Southern Medical Association as well as many other organizations. In 1979 Dr. Bohler was honored with a "Doctors Day" by the City of Brooklet for 25 years of community service. He was recognized as "Citizen of the Year" in 1997 by the Statesboro Rotary Club. He was respected and loved by all who knew him; and

WHEREAS, while in life he commanded the esteem of his fellow citizens, in his death we mingle our sympathies with the grief of his family and friends, and it is fitting and proper that he be honored by this state in the community in which he lived.

PART IX

WHEREAS, news of the passing of Coach Erskine "Erk" Russell, late of Statesboro and Georgia Southern University, is received with deep regret by this body; and

WHEREAS, the life led by this distinguished gentleman of 80 years rendered his name dear to the hearts of his family, his many friends, and fans alike; and

WHEREAS, Coach Russell received a bachelor's and master's degree from Auburn University where he played football, basketball, baseball, and tennis, earning ten varsity letters, and he remains Auburn's last four-sport letterman; and

WHEREAS, in 17 years as defensive coordinator for the University of Georgia, Coach Russell's tough "Junkyard Dogs" defenses were instrumental in the Bulldogs winning four SEC titles and one National Championship, and he became synonymous with Bulldog football; and

WHEREAS, Coach Russell left the University of Georgia in 1981 to resurrect the Georgia Southern University football program, where he served as head coach of the Eagles from 1981 through 1989; and

WHEREAS, Coach Russell's remarkable record of 83-22-1 and three Division 1-AA National Championships at Georgia Southern University established him as one of America's winningest coaches, averaging 10.4 wins per season; and

WHEREAS, Coach Russell was honored twice as the Kodak-American Football Coaches Association 1-AA "National Coach of the Year," twice as the Kodak-American Football Coaches Association 1-AA "Regional Coach of the Year," five times as "Coach of the Year" by the Georgia Sports Hall of Fame, once as the USA Today Georgia "Coach of the Year," and again by USA Today as Georgia "Coach of the Decade," as well as receiving many other awards, and he was inducted into the Georgia Sports Hall of Fame in 1987; and

WHEREAS, much of the growth and development of Georgia Southern University and the Bulloch County region have been greatly attributed to the successes of Coach Russell, and on January 25, 2007, the Statesboro-Bulloch County Chamber of Commerce posthumously named Erk Russell the "Businessman of the Century"; and

WHEREAS, he is survived by his wife, Jean Farmer Russell of Statesboro; two sons and daughters-in-law, Rusty and Pam Russell of Statesboro and Jay and Ida Russell of LaGrange; and ten grandchildren, Brian Faros of Kansas City, Jill Fawcett and Angie Faros of Frisco, Texas, Audrey and Charlee Russell of Statesboro, Mandy Russell of LaGrange, Davis Russell of Valdosta, Murphy Russell of Woodstock, and Henry Hughes and Fred Hughes of LaGrange; and

WHEREAS, the way Coach Russell lived his life, reflected in his motto "Just Do Right," served to influence the morals and ethics of all who knew him, most especially those who played for him.

PART X

WHEREAS, the spirit of teamwork and regionalism creates a synergy of economic development through tourism; and

WHEREAS, the communities in the GA 400 corridor are committed to building their economy through the creation of a regional coalition; and

WHEREAS, common goals of friendship, environmental improvement, quality of life, and sustainable economic development are the priorities of the communities within the GA 400 corridor; and

WHEREAS, these goals can be more easily obtained by working together as partners to achieve these lofty ideals; and

WHEREAS, tourism is one of the largest economic contributors to the tax base of the counties, cities, and communities in the GA 400 corridor.

PART XI

WHEREAS, Dick Chambers was born January 13, 1924, in Colquitt County to Nellie Alderman Chambers Wilson and John Jovus Chambers; and

WHEREAS, he was a retired quality control manager for Bridgeport Brass Company and he served as the Mayor of Funston for 49 years; and

WHEREAS, Mayor Chambers was a WWII veteran and was an ammunition bearer for a machine gun squadron that fought in Europe from December 1944 through July 1945 as part of Company G, 38th Infantry; he received the Bronze Star, the Good Conduct Medal, and many other awards for his distinguished service; and

WHEREAS, he was a life-long member of the Funston First United Methodist Church where he served as trustee, steward, and chairman of the board, and he also served on the board of the Southwest Georgia Rural Development Board in Camilla, Georgia; and

WHEREAS, Mayor Chambers was most proud of the creation of the volunteer fire department, the installation of the water system in Funston, and the construction of a new city hall; and

WHEREAS, he was married to Bettie Fisher Chambers and they had two children, seven grandchildren, and four great-grandchildren; and

WHEREAS, he was a kind and gentle soul who loved to travel and spend time with his friends and family.

PART XII

WHEREAS, Sgt. David Samuel Collins was stationed out of Fort Campbell, Kentucky, serving in Iraq and was a member of the United States Army's 101st Airborne Division, 1st Battalion, 506th Infantry Regiment, and 4th Brigade Combat Team; and

WHEREAS, he lost his life in Iraq on April 9, 2006, while bravely serving his country; and

WHEREAS, Sgt. Collins was 24 years old at the time of his death; and

WHEREAS, he grew up just beyond the intersection of SR 515 and Philadelphia Road in Pickens County; and

WHEREAS, Sgt. Collins is survived by his wife, Mara, two young children, James and Elizabeth, and his parents, Sammy Collins and Lynn Dean; and

WHEREAS, this courageous soldier, an American patriot, volunteered to confront the dangers, privations, and discomforts of wartime service and, in the name of humanity, strove to keep the peace in Iraq with fortitude and steadfast resolve, making us, as a nation, truly proud; and

WHEREAS, all Americans owe a debt of gratitude to the men and women of our armed forces who risk their lives in the defense of freedom, securing the blessings of liberty for this nation and other peoples of the world.

PART XIII

WHEREAS, Ed Echols was born in Forsyth County, Georgia, on December 28, 1913; and

WHEREAS, he was an entrepreneur who owned the Bishop Brothers Auto Auction and founded Echols Brothers House Movers; and

WHEREAS, he served three terms as a county commissioner for Clayton County, Georgia, and was a board member of the Clayton County Water Authority; and

WHEREAS, Mr. Echols was a farmer and rancher in Henry County commencing in 1943 and was the owner of the Echols Dairy Farm from 1951 to 1973; and

WHEREAS, he was a member of the Board of Trustees for the Salem Baptist Church; and

WHEREAS, he was the father of five children, all of whom live in Henry County; grandfather of 13 children, 12 of whom live in Henry County; and great-grandfather of 32 children; and

WHEREAS, this outstanding citizen lived a life of service to his church and his community and helped his communities adapt and prosper in times of fast moving changes.

PART XIV

WHEREAS, Kelley L. Courtney was born and raised on Barfield Road in Bibb County, Georgia, and never left home until he and his brother Donnie joined the United States Marine Corps in 1998; and

WHEREAS, Kelley L. Courtney rose to the rank of sergeant and was an intelligence officer who was assigned from the 3rd Intelligence Battalion of the III Marine Expeditionary Force to augment the 31st Marine Expeditionary Unit in Iraq and served as a counterintelligence and human intelligence specialist; and

WHEREAS, on October 30, 2004, Sgt. Courtney was killed in action in Fallujah, Iraq; and

WHEREAS, Sgt. Courtney has been recognized by the Marines for the vital role he played in leadership and his deep personal commitment to the protection and welfare of the citizens of this nation by dedicating a building in his honor at Camp Hansen, Okinawa; and

WHEREAS, Sgt. Courtney diligently and conscientiously devoted innumerable hours of his time, talents, and energy toward the betterment of his community, state, and nation; and

WHEREAS, his significant organizational and leadership talents, his remarkable patience and diplomacy, his keen sense of vision, and his sensitivity to the needs of the citizens of his nation earned him the respect and admiration of his colleagues and associates; and

WHEREAS, he was a person of magnanimous strengths with an unimpeachable reputation for integrity, intelligence, fairness, and kindness, and it is only fitting and proper that an interchange should be named in his honor.

PART XV

WHEREAS, Billy Lancaster lived his life with a passion for the land and for forestry; and

WHEREAS, he also had an equal passion for working with the youth of Georgia; and

WHEREAS, he was a strong believer in the stewardship ethic expected of landowners and foresters; and

WHEREAS, he was a strong supporter of the Georgia Forestry Association and its important role in protecting the right of landowners and foresters to practice good forestry management; and

WHEREAS, the Society of American Foresters' Youth Camp founded in 1989 by Billy Lancaster was renamed the Billy Lancaster Forestry Youth Camp in 2003; and

WHEREAS, Billy Lancaster's passion for life was contagious, and those who knew him and had the privilege to be around him were blessed; and

WHEREAS, it is only fitting that his memory be perpetuated for generations to come.

PART XVI

WHEREAS, Nathan and James Simmons were Georgians and brothers who proudly and courageously served their country when called upon; and

WHEREAS, Nathan B. Simmons was born on June 10, 1929, in Appling County, Georgia; and

WHEREAS, he enlisted in the United States Army, and rose to the rank of Sergeant First Class; and

WHEREAS, he was awarded numerous honors and medals, including the Army Commendation medal, Bronze Star medal for meritorious service in connection with military operations against a hostile force, Vietnam Service medal, National Defense Service medal, and the Soldier's Medal for pulling a panic-stricken soldier from a raging stream; and

WHEREAS, he was killed in action in Vietnam on May 12, 1969; and

WHEREAS, James Q. Simmons was born on July 22, 1930, in Nicholls, Georgia; and

WHEREAS, he enlisted in the United States Army and rose to the rank of Staff Sergeant while serving his country in Japan, Korea, and Vietnam; and

WHEREAS, he was awarded numerous honors and medals, including the Bronze Star, Purple Heart, Army of Occupation Medal, Korean Service Medal, Vietnam Service Medal, Sharpshooter Badge with Rifle Bar, and the Parachutist Badge – Master; and

WHEREAS, these courageous soldiers, in the spirit of the American patriot, confronted the dangers, privations, and discomforts of wartime service with steadfast resolve, making us as a nation truly proud; and

WHEREAS, all Americans owe a debt of gratitude to the men and women of our armed forces who risk their lives in the defense of freedom and to secure the blessings of liberty for this nation and other peoples of the world.

PART XVII

WHEREAS, the late Charles Cowart was born in Arlington, Georgia, in 1909, and lived there all of his life; and

WHEREAS, he served the public as county commissioner in Calhoun County for 37 years, including 32 years as chairman. During those years, he made numerous trips to Atlanta to

work first-hand with legislators and state department heads to find ways to improve Calhoun County; and

WHEREAS, he was always active in his church, Arlington United Methodist, holding various positions, most notably as chairman of the Board of Trustees for many years; and he belonged to several civic organizations; and

WHEREAS, he and Mary Martin were married in 1934; and

WHEREAS, the late Mary Martin Cowart was born in Blakely, Georgia, in 1908; her family moved to Arlington shortly thereafter, and she lived the rest of her life in Arlington; and

WHEREAS, she was very much involved in the work that brought the hospital to Arlington in the mid-1950s, and she then became a charter member of the Hospital Board, where she served as chairwoman for many years; during this same period of time, she worked tirelessly with many others to help Arlington become a Better Hometown community; and

WHEREAS, she always had a deep concern for the underprivileged, and she showed this concern during the many years that she worked for DFACS in Calhoun and Early counties and then later as manager of the Arlington Housing Authority; and

WHEREAS, she was a lifelong member of the Arlington United Methodist Church where she taught adult Sunday School classes for many years, and served in several other positions on the administrative board of the church.

PART XVIII

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the portion of SR 116 West between SR 219 and Hamilton, in Harris County, is dedicated as the Cason and Virginia Callaway Conservation Highway, to be known as the Callaway Conservation Highway.

BE IT FURTHER RESOLVED that the members of this body dedicate the portion of SR 16 from its intersection with Bankhead Highway north to the Haralson County line, in Carroll County, as the Veterans Memorial Highway.

BE IT FURTHER RESOLVED that the portion of SR 16 from the city limits of Mt. Zion to Mr. C.C. Perkins's house at 2994 Mt. Zion Road, between Bowdon and Carrollton, be dedicated as the C.C. Perkins Memorial Highway.

BE IT FURTHER RESOLVED that the bridge by which SR 2 crosses over the Conasauga River at Beaverdale is hereby dedicated as the Clint H. Bryant Memorial Bridge.

BE IT FURTHER RESOLVED that the interchange of Georgia Highway 8 and Midland Avenue in Barrow County is hereby dedicated as the Walter E. "Eddie" Elder Interchange in honor of the memory of this distinguished Georgian.

BE IT FURTHER RESOLVED that the interchange located at the intersection of Memorial Drive and I-285 in DeKalb County is dedicated as the Tom Scott Interchange.

BE IT FURTHER RESOLVED that the intersection of SR 255 and SR 197 in Habersham County is dedicated as the Edgar Stamey Memorial Interchange.

BE IT FURTHER RESOLVED that this state expresses regret at the passing of Dr. Charles Emory Bohler and honors his memory by designating State Route 26 (U.S. 80) from the eastern city limits of Brooklet to the eastern city limits of Statesboro as the Dr. Charles Emory Bohler Highway.

BE IT FURTHER RESOLVED that this state expresses regret at the passing of Coach Erskine "Erk" Russell and honors his memory by designating State Route 26 (U.S. 80) from its intersection with U.S. 25 in the community of Hopeulikit to the eastern city limits of Statesboro as the Erk Russell Highway.

BE IT FURTHER RESOLVED that the GA 400 corridor be dedicated as the Hospitality Highway.

BE IT FURTHER RESOLVED that the portion of SR 37 within the city limits of Funston, Georgia, in Colquitt County, be dedicated as the Edward Sidney "Dick" Chambers Memorial Highway.

BE IT FURTHER RESOLVED that the intersection of SR 515 and Philadelphia Road in Pickens County be dedicated as the SGT David Samuel Collins Memorial Interchange.

BE IT FURTHER RESOLVED that the portion of SR 20 from the North McDonough city limit to East Lake Road, in Henry County, be dedicated as the Ed Echols Memorial Highway.

BE IT FURTHER RESOLVED that the intersection of Hartley Bridge Road and I-75 in Bibb County is dedicated as the Sgt. Kelley L. Courtney Interchange.

BE IT FURTHER RESOLVED that the portion of SR 42 from the City of Forsyth to the entrance to Indian Springs State Park, in Butts and Monroe counties, be dedicated as the Billy Lancaster Memorial Highway.

BE IT FURTHER RESOLVED that the bridge on SR 221 between the city limits of Douglas and SR 206 be dedicated as the SFC Nathan B. Simmons and SSGT James Q. Simmons Memorial Bridge.

BE IT FURTHER RESOLVED that the portion of SR 45 Alternate in Calhoun County from the intersection of SR 45, SR 62, SR 216, and Cedar Street to the junction of SR 45 Alternate with SR 45 be designated as the Charles and Mary Cowart Bypass.

BE IT FURTHER RESOLVED that the Department of Transportation is authorized and directed to erect and maintain appropriate signs dedicating the road facilities named in this resolution.

BE IT FURTHER RESOLVED that the Clerk of the House of Representatives is authorized and directed to transmit appropriate copies of this resolution to the Department of Transportation, to the Callaway family, to the Board of Commissioners of Carroll County, to the family of C.C. Perkins, to the family of Mr. Clint H. Bryant, to the family of Mr. Walter E. Elder III, to the family of Mr. Tom Scott, to the family of Mr. Edgar Stamey, to the family of Dr. Charles Emory Bohler, to the family of Coach Erskine "Erk" Russell, to the family of Edward Sidney "Dick" Chambers, to the family of Sgt. David Samuel Collins, to the family of Mr. Ed Echols, to the family of Sgt. Kelley L. Courtney, to the family of Billy Lancaster, to the families of Nathan B. Simmons and James Q. Simmons, and to the family of Charles and Mary Cowart.

Approved May 29, 2007.

COURTS – ADDITIONAL JUDGES; COBB, CORDELE, DUBLIN, ENOTAH, AND GWINNETT CIRCUITS.

No. 362 (House Bill No. 118).

AN ACT

To amend Code Section 15-6-2 of the Official Code of Georgia Annotated, relating to the number of judges of superior court, so as to provide for an additional judge of the superior courts of the Cobb, Cordele, Dublin, Enotah, and Gwinnett judicial circuits; to provide for the appointment of such additional judges by the Governor; to provide for the election of successors to the judges initially appointed; to prescribe the powers of such judges; to prescribe the compensation, salary, and expense allowance of such judges to be paid by the

State of Georgia and the counties comprising said circuits; to authorize the judges of such circuits to divide and allocate the work and duties thereof; to provide for the manner of impaneling jurors; to provide for an additional court reporter for such circuits; to authorize the governing authority of the counties that comprise such circuits to provide facilities, office space, supplies, equipment, and personnel for such judges; to declare inherent authority; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

Part I
SECTION 1-1.

Code Section 15-6-2 of the Official Code of Georgia Annotated, relating to the number of judges of superior courts, is amended by revising paragraphs (11), (13), (16), (17.1), and (20) to read as follows:

"(11) Cobb Circuit. . . . . 10"
"(13) Cordele Circuit . . . . . 3"
"(16) Dublin Circuit. . . . . 3"
"(17.1) Enotah Circuit. . . . . 3"
"(20) Gwinnett Circuit. . . . . 10"

Part II
SECTION 2-1.

A new judge of the superior court is added to the Cobb Judicial Circuit, thereby increasing to ten the number of judges of said circuit.

SECTION 2-2.

The initial judge appointed as provided by this Act shall be appointed by the Governor for a term beginning on the date of his or her appointment and expiring December 31, 2008, and until a successor is elected and qualified. A successor to the initial judge shall be elected in a manner provided by law for the election of judges of the superior courts of this state at the general election in November, 2008, for a term of four years beginning on January 1, 2009, and until the election and qualification of a successor. Future successors shall be elected at the general election each four years thereafter for terms of four years and until the election and qualification of a successor. They shall take office on the first day of January following the date of the election. Such elections shall be held and conducted in a manner provided by law for the election of judges of the superior courts of this state.

SECTION 2-3.

Said additional judge shall have and may exercise all powers, duties, dignity, jurisdiction, privileges, and immunities of the present judges of the superior courts of this state. Any of the judges of the superior court of said circuit may preside over any case therein and perform any official act as judge thereof.

SECTION 2-4.

The compensation, salary, and contingent expense allowance of said additional judge shall be the same as that of the other judges of the superior court of the Cobb Judicial Circuit. Any salary supplements paid by the county of said circuit shall also be applicable to the additional judge provided for in this Act.

SECTION 2-5.

Except as expressly stated, this Act shall not be construed to alter or repeal any provision of any local Act relating to the Cobb Judicial Circuit.

Part III

SECTION 3-1.

One additional judge of the superior courts is added to the Cordele Judicial Circuit, thereby increasing to three the number of judges of said circuit.

SECTION 3-2.

Said additional judge shall be appointed by the Governor for a term beginning January 1, 2008, and continuing through December 31, 2008, and until his or her successor is elected and qualified. His or her successor shall be elected in the manner provided by law for the election of judges of the superior courts of this state at the nonpartisan judicial election in 2008, for a term of four years beginning on January 1, 2009, and until his or her successor is elected and qualified. Future successors shall be elected at the nonpartisan judicial election each four years after such election for terms of four years and until their successors are elected and qualified. They shall take office on the first day of January following the date of the election.

SECTION 3-3.

The additional judge of the superior courts of the Cordele Judicial Circuit of Georgia shall have and may exercise all powers, duties, dignity, jurisdiction, privileges, and immunities of the present judges of the superior courts of this state.

SECTION 3-4.

The compensation, salary, and contingent expense allowance of the additional Judge of the Superior Court for the Cordele Judicial Circuit of Georgia from the State of Georgia shall be the same as that of other judges of the superior courts of Georgia.

SECTION 3-5.

Upon and after qualification of the additional judge of the superior court of the Cordele Judicial Circuit, the three judges of said court may adopt, promulgate, amend, and enforce such rules of practice and procedure in consonance with the Constitution and laws of the State of Georgia as they deem suitable and proper for the effective transaction of the business of the court; and, in transacting the business of the court and in performing their duties and responsibilities, they shall share, divide, and allocate the work and duties to be performed by each. In the event of a disagreement among the judges in respect hereof, the decision of the senior judge in point of service shall be controlling.

SECTION 3-6.

The judge of the court, senior in term of continuous service, shall be the presiding judge of the court, in whom is to vest the power to make all appointments whenever the law provides for the superior court judge to make appointments.

SECTION 3-7.

All writs, processes, orders, subpoenas, and any other official paper issuing out of the superior courts of the Cordele Judicial Circuit may bear teste in the name of any judge of the Cordele Judicial Circuit, and when issued by and in the name of any judge of said circuit shall be fully valid and may be heard and determined before the same or any other judge of said circuit. Any judge of said circuit may preside over any case therein and perform any official act as judge thereof.

Part IV
SECTION 4-1.

One additional judge of the superior courts is added to the Dublin Judicial Circuit, thereby increasing to three the number of judges of said circuit.

SECTION 4-2.

Said additional judge shall be appointed by the Governor for a term of office beginning on the date of his or her appointment and continuing through December 31, 2008, and until his or her successor is elected and qualified; such judge shall take office on the date of his or her appointment by the Governor. His or her successor shall be elected in the manner provided by law for the election of judges of the superior courts of this state at the general election in November, 2008, for a term of four years beginning on the first day of January, 2009, and

until his or her successor is elected and qualified. Future successors shall be elected at the general election each four years after such election for terms of four years and until their successors are elected and qualified. They shall take office on the first day of January following the date of the election. Such elections shall be held and conducted in the manner provided by law for the election of judges of the superior courts of this state.

SECTION 4-3.

Every person who offers for nomination and election as one of the judges of said superior courts of the Dublin Judicial Circuit of Georgia shall designate with the proper authority in all elections the specific place for which he or she offers by naming the incumbent judge whom he or she desires to succeed; and thereupon he or she shall be qualified, if otherwise qualified, to run for said specific judgeship and no other. In the event there is no incumbent judge in the place for which he or she desires to offer, the candidate shall qualify by announcing his or her intention to run for the office for which there is no incumbent.

SECTION 4-4.

The additional judge of the superior courts of the Dublin Judicial Circuit of Georgia shall have and may exercise all powers, duties, dignity, jurisdiction, privileges, and immunities of the present judges of the superior courts of this state. Any of the judges of the Dublin Judicial Circuit may preside over any cause, whether in their own or in other circuits, and perform any official act as judge thereof, including sitting on appellate courts as provided by law.

SECTION 4-5.

The qualifications of such additional judge and his or her successors shall be the same as are now provided by law for all other superior court judges; and his or her compensation, salary, and expense allowance shall be the same as that of the other judges of the superior courts of the Dublin Judicial Circuit. The provisions, if any, heretofore enacted for the supplementation by the counties of said circuit of the salary of the judge of the superior courts of the Dublin Judicial Circuit shall also be applicable to the additional judge provided for by this Act.

SECTION 4-6.

All writs and processes in the superior courts of the Dublin Judicial Circuit shall be returnable to the terms of said superior court as they are now fixed and provided by law, or as they may hereafter be fixed or determined by law; and all terms of said courts shall be held in the same manner as though there were but one judge, it being the intent and purpose of this Act to provide three judges coequal in jurisdiction and authority to attend to and perform the functions, powers, and duties of the judges of said superior courts and to direct and conduct all hearings and trials in said courts.

SECTION 4-7.

The three judges of the superior courts of the Dublin Judicial Circuit of Georgia in transacting the business of said courts and in performing their duties and responsibilities shall share, divide, and allocate the work and duties to be performed by each. In the event of any disagreement among said judges in any respect hereof, the decision of the senior judge in point of service, who shall be known as the chief judge, shall be controlling. The judge with the longest period of time of service shall be the senior judge. The chief judge shall have the right to appoint referees of the juvenile courts of the counties comprising said circuit; and, in the event a juvenile court is established in any of said counties within said circuit, as provided by law, the chief judge shall appoint the judge of said court as provided by law. The three judges of the superior courts of the Dublin Judicial Circuit shall have, and they are clothed with, full power, authority, and discretion to determine from time to time, and term to term, the manner of calling the dockets and fixing the calendars and order of business in said courts. They may assign to one of said judges the hearing of trials by jury for a term, and the hearing of all other matters not requiring a trial by a jury to one of the other judges; and they may rotate such order of business at the next term. They may conduct trials by jury at the same time in the same county or otherwise within said circuit, or they may hear chambers business and motion business at the same time at any place within said circuit. They may provide in all respects for holding the superior courts of said circuit so as to facilitate the hearing and determination of all the business of said courts at any time pending and ready for trial or hearing. In all such matters relating to the manner of fixing, arranging for, and disposing of the business of said courts, and making appointments as authorized by law where the judges thereof cannot agree or shall differ, the opinion or order of the chief judge shall control.

SECTION 4-8.

The drawing and impaneling of all jurors, whether grand, petit, or special, may be by each of the judges of the superior courts of said circuit; and they, or each of them, shall have full power and authority to draw and impanel jurors for service in said courts so as to have jurors for the trial of cases before each of said judges separately or before each of them at the same time.

SECTION 4-9.

The three judges of the Dublin Judicial Circuit shall be authorized and empowered to appoint an additional court reporter for such circuit, whose compensation shall be as now or hereafter provided by law.

SECTION 4-10.

All writs, processes, orders, subpoenas, and any other official paper issuing out of the superior courts of the Dublin Judicial Circuit may bear teste in the name of any judge of the Dublin Judicial Circuit and, when issued by and in the name of any judge of said circuit,

shall be fully valid and may be heard and determined before the same or any other judge of said circuit. Any judge of said court may preside over any cause therein and perform any official act as judge thereof.

SECTION 4-11.

Upon request of any judge of the circuit, the governing authorities of the counties comprising the Dublin Judicial Circuit are authorized to furnish the judges of said circuit with suitable courtrooms and facilities, office space, telephones, furniture, office equipment, supplies, and such personnel as may be considered necessary by the court to the proper function of the court. All of the expenditures authorized herein are declared to be an expense of court and payable out of the county treasury as such.

PART V.
SECTION 5-1.

One additional judge of the superior courts is added to the Enotah Judicial Circuit, thereby increasing to three the number of judges of said circuit.

SECTION 5-2.

Said additional judge shall be appointed by the Governor for a term beginning January 1, 2008, and continuing through December 31, 2008, and until his or her successor is elected and qualified. His or her successor shall be elected in the manner provided by law for the election of judges of the superior courts of this state at the nonpartisan judicial election in 2008, for a term of four years beginning on January 1, 2009, and until his or her successor is elected and qualified. Future successors shall be elected at the nonpartisan judicial election each four years after such election for terms of four years and until their successors are elected and qualified. They shall take office on the first day of January following the date of the election.

SECTION 5-3.

The additional judge of the superior courts of the Enotah Judicial Circuit of Georgia shall have and may exercise all powers, duties, dignity, jurisdiction, privileges, and immunities of the present judges of the superior courts of this state. Any of the judges of the Enotah Judicial Circuit may preside over any cause, whether in their own or in other circuits, and perform any official act as judge thereof, including sitting on appellate courts as provided by law.

SECTION 5-4.

The qualifications of such additional judge and his or her successors and his or her compensation, salary, and expense allowance from the State of Georgia and from the counties of the superior courts of the Enotah Judicial Circuit shall be the same as are now

provided by law for all other superior court judges. The provisions, if any, enacted for the supplementation by the counties of said circuit of the salary of the judges of the superior courts of the Enotah Judicial Circuit shall also be applicable to the additional judge provided for by this Act.

SECTION 5-5.

All writs and processes in the superior courts of the Enotah Judicial Circuit shall be returnable to the terms of said superior courts as they are now fixed and provided by law, or as they may hereafter be fixed or determined by law, and all terms of said courts shall be held in the same manner as though there were but one judge, it being the intent and purpose of this Act to provide three judges equal in jurisdiction and authority to attend and perform the functions, powers, and duties of the judges of said superior courts and to direct and conduct all hearings and trials in said courts.

SECTION 5-6.

Upon and after qualification of the additional judge of the superior court of the Enotah Judicial Circuit, the three judges of said court may adopt, promulgate, amend, and enforce such rules of practice and procedure in consonance with the Constitution and laws of the State of Georgia as they deem suitable and proper for the effective transaction of the business of the court; and, in transacting the business of the court and in performing their duties and responsibilities, they shall share, divide, and allocate the work and duties to be performed by each. In the event of a disagreement among the judges in respect hereof, the majority shall rule, or failing a majority, the decision of the senior judge in point of service, who shall be known as the chief judge, shall be controlling.

SECTION 5-7.

The drawing and impaneling of all jurors, whether grand, petit, or special, may be by any of the judges of the superior court of said circuit; and they, or any one of them, shall have full power and authority to draw and impanel jurors for service in said courts so as to have jurors for the trial of cases before any of said judges separately or before each of them at the same time.

SECTION 5-8.

The three judges of the Enotah Judicial Circuit shall be authorized and empowered to appoint an additional court reporter for such circuit, whose compensation shall be as now or hereafter provided by law.

SECTION 5-9.

All writs, processes, orders, subpoenas, and any other official paper issuing out of the superior courts of the Enotah Judicial Circuit may bear teste in the name of any judge of the Enotah Judicial Circuit, and when issued by and in the name of any judge of said circuit shall

be fully valid and may be heard and determined before the same or any other judge of said circuit. Any judge of said circuit may preside over any case therein and perform any official act as judge thereof.

SECTION 5-10.

Upon request of any judge of the circuit, the governing authorities of the counties comprising the Enotah Judicial Circuit are authorized to furnish the judges of said circuit with suitable courtrooms and facilities, office space, telephones, furniture, office equipment, supplies, and such personnel as may be considered necessary by the court to the proper function of the court. All of the expenditures authorized in this Act are declared to be an expense of the court and payable out of the county treasury as such.

Part VI

SECTION 6-1.

The additional judge of the superior court of the Gwinnett Judicial Circuit provided for in this Act shall be appointed by the Governor for a term beginning January 1, 2008, and expiring December 31, 2008, and until a successor is elected and qualified. At the nonpartisan judicial election to be held in 2008, there shall be elected a successor to the first additional judge appointed as provided for above, and he or she shall take office on the first day of January, 2009, and serve for a term of office of four years and until a successor is duly elected and qualified. All subsequent successors to such judge shall be elected at the nonpartisan judicial election conducted in the year in which the term of office shall expire for a term of four years and until his or her successor is duly elected and qualified. Said elections shall be held and conducted as is now or may hereafter be provided by law for the election of judges of the superior courts of the State of Georgia.

SECTION 6-2.

The additional judge of the superior court of the Gwinnett Judicial Circuit shall have and may exercise all powers, duties, dignities, jurisdiction, privileges, and immunities of the present judges of the superior courts of this state. Any of the judges of said court may preside over any cause, whether in their own or in other circuits, and perform any official act as judge thereof, including sitting on appellate courts as provided by law.

SECTION 6-3.

The compensation, salary, and contingent expense allowance of said additional judge of the superior court of the Gwinnett Judicial Circuit shall be the same as that of other judges of the superior courts of Georgia. The additional judge shall also be paid a county supplement by the county comprising said circuit in the same manner and to the same extent as the present superior court judges of said circuit are paid.

SECTION 6-4.

All writs, processes, orders, subpoenas, and any other official paper issuing out of the superior court of the Gwinnett Judicial Circuit may bear teste in the name of any judge of said circuit and, when issued by and in the name of any of said judges of said circuit, shall be fully valid and may be held and determined before any judge of said circuit.

SECTION 6-5.

Upon and after qualification of the additional judge of the superior court of the Gwinnett Judicial Circuit, the ten judges of said court shall be authorized to adopt, promulgate, amend, and enforce such rules of procedure in consonance with the Constitution and laws of the State of Georgia as they deem suitable and proper for the effective transaction of the business of the court; and, in transacting the business of the court and in performing their duties and responsibilities, they shall divide and allocate the work and duties to be performed by each. In the event of a disagreement between or among said judges affecting the duties and responsibilities of the judges of the superior court of the Gwinnett Judicial Circuit, the decision of the senior judge in term of current continuous, uninterrupted service shall be controlling.

SECTION 6-6.

The judge of said court, senior in term of current continuous, uninterrupted service as a judge of the superior court, shall be the presiding judge of said court in whom shall be vested the power to make all appointments whenever the law provides for the superior court judge to make appointments, except as herein provided.

SECTION 6-7.

The drawing and impaneling of all jurors, whether grand, petit, or special, may be by any of the judges of the superior court of said circuit; and any such judge of the superior court of said circuit shall have full power and authority to draw and impanel jurors for service in said court so as to have jurors for the trial of cases before each of said judges separately or before each of them at the same time.

SECTION 6-8.

The ten judges of the superior court of the Gwinnett Judicial Circuit shall be authorized and empowered to employ an additional court reporter for such duties and for such compensation as such judges see fit, up to and including, but not exceeding, the remuneration of the present court reporters of the Gwinnett Judicial Circuit as the same is now fixed or may hereafter be fixed.

SECTION 6-9.

The governing authority of the county comprising the Gwinnett Judicial Circuit is fully authorized and empowered to provide suitable courtrooms, jury rooms, and chambers for the

ten judges of the superior court of the Gwinnett Judicial Circuit upon the recommendation of said judges.

Part VII
SECTION 7-1.

Nothing in this Act shall be deemed to limit or restrict the inherent powers, duties, and responsibilities of superior court judges provided by the Constitution and statutes of the State of Georgia.

SECTION 7-2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 7-3.

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

Approved May 29, 2007.

EDUCATION – HERO SCHOLARSHIP; ELIGIBILITY; LIMITATIONS.

No. 363 (House Bill No. 131).

AN ACT

To amend Subpart 10A of Part 3 of Article 7 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to the Georgia HERO (Helping Educate Reservists and their Offspring) Scholarship, so as to provide that surviving spouses shall be eligible students; to provide limitations on the time periods when such scholarship funds shall be available; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Subpart 10A of Part 3 of Article 7 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to the Georgia HERO (Helping Educate Reservists and their Offspring) Scholarship, is amended by revising paragraph (2) of Code Section 20-3-485 of the Official

Code of Georgia Annotated, relating to definitions relative to the Georgia HERO (Helping Educate Reservists and their Offspring) Scholarship, as follows:

"(2) 'Eligible student' means a person who:

(A)(i) Is enrolled as a full-time or part-time student in an approved school;

(ii) Meets residency requirements to be classified as a legal resident of Georgia as established pursuant to regulations of the authority and who remains a citizen of the state while receiving funds under this subpart; and

(iii) Is a member of the Georgia National Guard as such term is defined in Code Section 38-2-3 or a member of a reserve component of the armed forces of the United States, which member has completed at least one qualifying term of service;

(B) Is a child:

(i) Whose parent was a member of the Georgia National Guard as such term is defined in Code Section 38-2-3 or a member of a reserve component of the armed forces of the United States, including a deceased member, which member completed at least one qualifying term of service;

(ii) Who was born prior to such qualifying term of service or within nine months of the beginning of such qualifying term of service; and

(iii) Is 25 years of age or younger who is enrolled as a full-time or part-time student in an approved school;

(C) Is a surviving spouse of a deceased member of the Georgia National Guard as such term is defined in Code Section 38-2-3 who was killed in a combat zone or as a result of injuries received in a combat zone, which member completed at least one qualifying term of service; or

(D) Is a surviving spouse of a deceased member of a reserve component of the armed forces of the United States who was killed in a combat zone or as a result of injuries received in a combat zone, which member completed at least one qualifying term of service."

SECTION 2.

Said subpart is further amended by revising Code Section 20-3-486, relating to grants to eligible students, as follows:

"20-3-486.

(a) There is granted to each eligible student under subparagraph (A) of paragraph (2) of Code Section 20-3-485 attending an approved school a Georgia HERO Scholarship grant for a maximum of four award years in the sum of $2,000.00 per award year. No person shall be eligible to receive grant assistance provided under this subsection in excess of $8,000.00.

(b) There is granted to each eligible student under subparagraph (B) of paragraph (2) of Code Section 20-3-485 attending an approved school a Georgia HERO Scholarship grant in the sum of $2,000.00 per award year. Such student shall be eligible for one award year for each period of 181 consecutive days that his or her parent was deployed overseas on

active service on or after May 3, 2005, to a location or locations outside of the United States and its territories designated by the United States Department of Defense as a combat zone; provided, however, that a student whose parent was killed or received a 100 percent disability as a result of injuries received in such combat zone shall receive up to a maximum of four award years regardless of the time such student's parent was on active service in such combat zone. No person shall be eligible to receive grant assistance provided under this subsection in excess of $8,000.00.

(c) There is granted to each eligible student under subparagraph (C) or (D) of paragraph (2) of Code Section 20-3-485 attending an approved school a Georgia HERO Scholarship grant in the sum of $2,000.00 per award year. Such student shall be eligible for four award years. No person shall be eligible to receive grant assistance provided under this subsection in excess of $8,000.00. Applications for the initial grant under this subsection must be made before July 1, 2009, or not later than two years following the death of the spouse, whichever is later, and no grant shall be issued later than six years after the initial grant is issued.

(d) Grant assistance to eligible students under this subpart shall be payable on a pro rata basis based upon whether the student is enrolled full time or part time and the number of semesters or quarters of enrollment. The payment of grants to eligible students under this subpart shall be contingent upon the appropriation of funds by the General Assembly for the purposes of this subpart in annual appropriations Acts of the General Assembly."

SECTION 3.

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

Approved May 30, 2007.

REVENUE – DIGEST CALCULATION; POSITIVE TAX ALLOCATION INCREMENTS.

No. 364 (House Bill No. 182).

AN ACT

To amend Code Section 48-5-274 of the Official Code of Georgia Annotated, relating to the establishment of the equalized adjusted property tax digest, so as to provide that positive tax allocation increments shall not be used in calculating certain tax digest amounts; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-5-274 of the Official Code of Georgia Annotated, relating to the establishment of the equalized adjusted property tax digest, is amended by revising subsection (b) as follows:

"(b) The state auditor shall establish on a continuing basis, no later than November 15 in each year, an equalized adjusted property tax digest for each county in the state and for the state as a whole for the current calendar year. Such digest shall exclude all real and personal property exempted from taxation and the difference between the value of all taxable property within any tax allocation district and the tax allocation increment base of such tax allocation district as defined under paragraph (15) of Code Section 36-44-3 for which consent has been obtained pursuant to Code Section 36-44-9. The state auditor may establish a unit within the Department of Audits and Accounts consisting of such number of personnel as is deemed necessary in order to establish and maintain on a continuing basis the equalized adjusted property tax digest. The equalized adjusted property tax digest shall be established and maintained as follows:

(1) Determine the locally assessed valuation of the county property tax assessment digest for the preceding calendar year, exclusive of real and personal property exempted from taxation, exclusive of the difference between the value of all taxable property within any tax allocation district and the tax allocation increment base of such tax allocation district as defined under paragraph (15) of Code Section 36-44-3 for which consent has been obtained pursuant to Code Section 36-44-9, exclusive of railroad equipment company property shown on the county railroad equipment company property tax digest, exclusive of any property subject to current use valuation on the county property tax digest, and exclusive of the locally assessed valuation of timber harvested or sold;

(2) Determine the fair market value for timber harvested or sold during the calendar year;

(3) Divide the sum of the locally assessed valuation of the county property tax assessment digest under paragraph (1) of this subsection by the ratio of assessed value to fair market value of the property established by the state auditor in accordance with paragraph (8) of this subsection;

(4) Determine the fair market value of the county railroad equipment company property tax digest for the preceding calendar year;

(5) Determine the sum of the current use valuation of the county property tax digest;

(6) Determine the total fair market value of the Public Utility Digest as established by the commissioner;

(7) The total of the sums obtained through the calculations prescribed in paragraphs (2), (3), (4), (5), and (6) of this subsection shall be known as the current equalized adjusted property tax digest of the county. The sum of the current equalized adjusted property tax digest of all counties of the state combined shall be known as the current equalized adjusted property tax digest for the state as a whole; and

(8) Establish for each county in the state the ratio of assessed value to fair market value of county property subject to taxation, excluding railroad equipment company property. The ratio shall be determined by establishing the ratio of assessed value to sales price for each of a representative number of parcels of real property, the titles to which were transferred during a period of time to be determined by the state auditor, and then by establishing the measure of central tendency for the county as a whole based upon a representative number of usable transactions studied. The representative number of transactions shall not include any parcel of which the sales price is not reflective of the fair market value of such property as fair market value is defined in Code Section 48-5-2. The state auditor shall supplement realty sales price data available in any county with actual appraisals of a representative number of parcels of farm property and industrial and commercial property located within the county, the titles to which were not transferred within the period of time determined by the state auditor. The state auditor may make appraisals on other types of real property located within the county when adequate realty sales data cannot be obtained on such property. The representative number of parcels of each class of real property as defined by the commissioner used for the study shall be determined by the state auditor. The state auditor may use the same ratio for other personal property, excluding motor vehicles, within the county as is finally determined for real property within the county."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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

Approved May 30, 2007.

REVENUE – SALES TAX
EXEMPTION; JET FUEL.

No. 366 (House Bill No. 193).

AN ACT

To amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use taxation, so as to provide for a partial exemption from the state sales and use tax on certain sales or uses of jet fuel; to provide for an exemption from

a certain local sales and use tax on certain sales or uses of jet fuel; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use taxation, is amended by adding a new paragraph (33.2) as follows:

"(33.2)(A) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport, to the extent provided in subparagraphs (B), (C), and (D) of this paragraph.

(B) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt from the first 1.80 percent of the 4 percent state sales and use tax imposed by this chapter and shall be subject to the remaining 2.20 percent of the 4 percent state sales and use tax imposed by this chapter.

(C) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall also be exempt from the sales or use tax levied and imposed as authorized pursuant to Part 1 of Article 3 of this chapter.

(D) Except as provided for in subparagraph (C) of this paragraph, this exemption shall not apply to any other local sales and use tax levied or imposed at anytime in any area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965,' or such taxes as authorized by or pursuant to Part 2 of Article 3 or Article 2, 2A, or 4 of this chapter.

(E) For purposes of this paragraph, a 'qualifying airline' shall mean any person which is authorized by the Federal Aviation Administration or appropriate agency of the United States to operate as an air carrier under an air carrier operating certificate and which provides regularly scheduled flights for the transportation of passengers or cargo for hire.

(F) For purposes of this paragraph, a 'qualifying airport' shall mean any airport in the state that has had more than 750,000 takeoffs and landings during a calendar year.

(G) The commissioner shall adopt rules and regulations to carry out the provisions of this paragraph.

(H) The exemption provided for in this paragraph shall apply only as to transactions occurring on or after July 1, 2007, and prior to July 1, 2009."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall be applicable to transactions occurring on or after July 1, 2007, and prior to July 1, 2009.

SECTION 3.

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

Approved May 30, 2007.

CONSERVATION – JEKYLL ISLAND-STATE PARK AUTHORITY; PROPERTY LEASES; MASTER PLAN; TAX EXEMPTION; POWERS; PROPERTY SALES.

No. 367 (House Bill No. 214).

AN ACT

To amend Part 2 of Article 1 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated, relating to the Recreational Authorities Overview Committee, so as to remove the Jekyll Island—State Park Authority from the committee's review; to amend Part 1 of Article 7 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated, relating to the Jekyll Island—State Park Authority, so as to provide for a renewal of the property lease to the authority; to extend the existence of the authority consistent with such lease renewal; to provide for advisory members of the authority; to provide for legislative oversight of the authority; to amend certain provisions relating to the master plan as to Jekyll Island; to clarify that the authority is exempt from certain taxation; to change certain provisions relating to Jekyll Island—State Park Authority powers, disposition of proceeds of sale, creation of reserve fund, and signing conveyances; to change certain provisions relating to conditions on sale of residential lots and commercial property, price, and payment into state treasury; to provide for legislative intent; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

The Georgia General Assembly finds that Jekyll Island is home to some of the state's most treasured natural and cultural resources and it is the expressed intent of this body to ensure the preservation of these resources for the enjoyment of all Georgians now and for future generations to come. For this reason, the state shall continue its commitment that not less than 65 percent of the land area of Jekyll Island which lies above water at mean high tide shall remain undeveloped. Jekyll Island proudly displays one of Georgia's largest stretches of barrier island property. It is the expressed intent of this body that the beach areas of Jekyll

Island will remain free and open for the use of the people of the state. Commercial improvement is intended to better existing and future development of the remaining 35 percent of Jekyll Island while retaining public access to the beaches for the pleasure of all of Georgia's citizens. The General Assembly further finds that the deteriorating conditions of public and commercial facilities is of great interest to the legislature and to the public and that by significantly extending the existing lease authority for the island's property, the state will thereby help to secure and encourage future investments and provide a basis for long-term revitalization of the island. Jekyll Island is recognized by this body as "Georgia's Jewel," and its remarkable beauties are hereby preserved so that they may continue to shine for all citizens of Georgia.

SECTION 2.

Part 2 of Article 1 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated, relating to the Recreational Authorities Overview Committee, is amended by revising Code Section 12-3-20, relating to creation of the committee and duty to review designated authorities, as follows:

"12-3-20.

There is created as a joint committee of the General Assembly the Recreational Authorities Overview Committee to be composed of three members of the House of Representatives appointed by the Speaker of the House of Representatives and three members of the Senate appointed by the President of the Senate. The members of the committee shall serve two-year terms concurrent with their terms as members of the General Assembly. The chairperson of the committee shall be appointed by the Speaker of the House of Representatives from the membership of the committee, and the vice chairperson of the committee shall be appointed by the President of the Senate from the membership of the committee. The chairperson and vice chairperson shall serve terms of two years concurrent with their terms as members of the General Assembly. Vacancies in an appointed member's position or in the offices of chairperson or vice chairperson of the committee shall be filled for the unexpired term in the same manner as the original appointment. The committee shall periodically inquire into and review the operations of the Stone Mountain Memorial Association, the North Georgia Mountains Authority, and the Lake Lanier Islands Development Authority and shall periodically review and evaluate the success with which each of the said authorities is accomplishing its statutory duties and functions as provided in this chapter."

SECTION 3.

Part 1 of Article 7 of Chapter 3 of Title 12 of the Official Code of Georgia Annotated, relating to the Jekyll Island—State Park Authority, is amended by revising Code Section 12-3-232, relating to creation, delegation of powers and duties, and duration of the authority, as follows:

"12-3-232.

(a) There is created a body corporate and politic to be known as the Jekyll Island—State Park Authority, which shall be deemed to be an instrumentality of the state and a public corporation, and by that name, style, and title such body may contract and be contracted with, sue and be sued, implead and be impleaded, and complain and defend in all courts. The authority may delegate to one or more of its members, or to its officers, agents, and employees, such powers and duties as it may deem proper. The authority shall exist for 99 years and, upon the expiration thereof, shall exist for an additional 40 years.

(b) The authority is assigned to the Department of Natural Resources for administrative purposes only."

SECTION 4.

Said part is further amended by revising Code Section 12-3-233, relating to appointment of members to the Jekyll Island—State Park Authority, by redesignating subsections (d) and (e) as subsections (f) and (g) and inserting new subsections (d) and (e) as follows:

"(d) Two advisory members shall be appointed from the membership of the Recreational Authorities Overview Committee to serve on the authority in an advisory capacity only without voting privileges. One advisory member shall be appointed by the Speaker of the House and one advisory member shall be appointed by the President of the Senate. This subsection shall stand automatically repealed and reserved on December 31, 2009.

(e) Membership on the authority does not constitute public office and no member shall be disqualified from holding public office by reason of his or her membership."

SECTION 5.

Said part is further amended by revising Code Section 12-3-234, relating to accountability of members, as follows:

"12-3-234.

(a) The members of the authority shall be accountable in all respects as trustees. The authority shall keep suitable and proper books and records of all receipts, income, and expenditures of every kind and shall submit for inspection all of the books, together with a proper statement of the authority's financial position, once a year on or about December 31 to the state auditor and to the Jekyll Island—State Park Authority Oversight Committee. The books and records shall be inspected and audited by the state auditor at least once in each year. The authority shall also submit a quarterly summary of each lease and contract agreement involving an amount in excess of $50,000.00 to the legislative oversight committee. Upon request, a copy of the lease or contract agreement or other documents so requested shall be provided to the members of the oversight committee.

(b) There is created as a joint committee of the General Assembly the Jekyll Island—State Park Authority Oversight Committee to be composed of three members of the House of Representatives appointed by the Speaker of the House, one of whom shall be from the House Committee on State Institutions and Property, and three members of the Senate

appointed by the President of the Senate, one of whom shall be from the Senate Committee on State Institutions and Property. The members of the committee shall serve two-year terms concurrent with their terms as members of the General Assembly. The chairperson of the committee shall be appointed by the President of the Senate from the membership of the committee, and the vice chairperson of the committee shall be appointed by the Speaker of the House from the membership of the committee during odd-numbered years. The chairperson of the committee shall be appointed by the Speaker of the House from the membership of the committee, and the vice chairperson of the committee shall be appointed by the President of the Senate from the membership of the committee during even-numbered years. The chairperson and vice chairperson shall serve terms of one year beginning January 1, 2007. Vacancies in an appointed member's position or in the offices of chairperson or vice chairperson of the committee shall be filled for the unexpired term in the same manner as the original appointment. The committee shall advise the General Assembly regarding the authority's compliance with the provisions required by this part. The committee shall meet upon the call of the chairperson."

SECTION 6.

Said part is further amended by revising subsection (a) of Code Section 12-3-241, relating to the lease to the authority, as follows:

"(a) To the authority is granted, for and on the part of the State of Georgia, a lease for a term of 99 years, beginning on February 13, 1950, which term shall be automatically extended an additional 40 years upon the ending of the initial term. The lease shall be for all of that island of the State of Georgia, County of Glynn, being known as Jekyll Island and the marshes and marsh islands adjacent and adjoining the same owned by the State of Georgia; being that island of 11,000 acres, more or less, lying east of the mainland coast of Georgia, County of Glynn, bounded on its easterly shore by the Atlantic Ocean; bounded upon its northerly shore by Brunswick River, bounded on its westerly shore by Brunswick River, Jekyll Creek, Jekyll River, and Jekyll Sound; and bounded on its southerly shore by Jekyll Sound, together with the adjacent and adjoining marshes and marsh islands; which properties may also be described as all of the lands acquired by the State of Georgia in a certain condemnation proceeding, *State of Georgia vs. Jekyll Island Club, Inc., et al.*, filed June 6, 1947, in Glynn County Superior Court; which properties may also be described in all conveyances, conveying any and all parts of Jekyll Island and the adjacent and adjoining marshes and marsh islands to the State of Georgia, recorded upon the official deed books of Glynn County as of February 13, 1950, all and each one of said conveyances being, by reference, expressly incorporated into this Code section and made in their entireties a part hereof."

SECTION 7.

Said part is further amended by revising paragraph (2) of subsection (a) of Code Section 12-3-243, relating to Jekyll Island—State Park Authority powers, disposition of proceeds of sale, creation of reserve fund, and signing conveyances, as follows:

"(2)(A) The authority shall not survey, subdivide, improve, lease, sell, develop, or otherwise cause a project to be constructed on the 65 percent of the land area of Jekyll Island which the authority is not empowered to survey, subdivide, improve, and lease or sell pursuant to paragraph (1) of this subsection; provided, however, that nothing in this paragraph shall be construed as to require the removal of any improvement on such land area which was completed on March 14, 1995.

(B) That portion of Jekyll Island lying south of 31 degrees, 1 minute, 34 seconds north latitude as such latitude is depicted on the 1993 USGS topographic survey 7.5 minute series quadrangle map shall always be included within the area of Jekyll Island protected by this paragraph, and the authority shall not enter into, renew, or extend any agreement or otherwise take any action regarding such southern portion of the island in violation of this paragraph on or after the effective date of this subparagraph, except as otherwise provided in this subparagraph. The removal of any improvement on such southern portion of the island which was completed prior to the effective date of this subparagraph shall not be required. Upon the expiration or termination of any lease of a lot for a single-family residence on such southern portion of the island, the authority may again lease such lot to the same or another lessee for a single-family residence or noncommercial purpose or the authority may set aside the lot for public use; but the lot shall not be further subdivided, and the authority shall not lease such lot for any multifamily residence or commercial purpose. Those properties used for the Jekyll Island 4-H center and soccer complex may continue to be used and improved for the same or similar purposes under an extension or renewal of an existing lease or under a new lease. This subparagraph shall not prohibit the construction and use of any public bicycle trails, public nature trails, or public picnic areas on such southern portion of the island by the authority. This subparagraph shall not be applied to impair the obligation of any valid contract entered into prior to the effective date of this subparagraph."

SECTION 8.

Said part is further amended by revising Code Section 12-3-243.1, relating to the master plan as to Jekyll Island, as follows:

"12-3-243.1.

(a) The authority shall, on or before July 1, 1996, cause to be created a master plan for the management, preservation, protection, and development of Jekyll Island. The master plan shall delineate, based upon aerial survey, the present and permitted future uses of the land area of Jekyll Island which lies above water at mean high tide and shall designate areas to be managed as environmentally sensitive, historically sensitive, and active use areas. The master plan shall also delineate the boundaries of the area or areas delineated on the master

plan as the 65 percent of the land area of Jekyll Island which lies above water at mean high tide and over which the authority has no power to improve, lease, or sell pursuant to subsection (a) of Code Section 12-3-243. If the aerial survey demonstrates that the percentage of undeveloped land on Jekyll Island is presently less than 65 percent, then no further development of undeveloped land shall be permitted in the master plan.

(b) In the creation of the master plan, the authority shall, after preparation of a preliminary plan, give notice of the existence of the preliminary plan in the legal organs of Glynn and Fulton counties and in at least two newspapers of state-wide general circulation not less than 60 days prior to the meeting of the authority at which the preliminary plan is to be considered for final adoption. After giving this notice, the authority shall hold a public hearing at a convenient location on Jekyll Island and receive and consider such oral and written comments on the preliminary plan as may be presented.

(c) The authority, in the exercise of its authority to develop, manage, preserve, and protect Jekyll Island, shall be guided by and shall adhere to the master plan as the same may from time to time be amended as provided in subsection (d) of this Code section.

(d) The authority may, from time to time, amend the master plan but only in compliance with the following procedure:

(1) Any proposed amendment to the master plan shall be described in written form and, if capable of such description, in visual form and presented publicly at a regular meeting of the authority;

(2) After the proposed amendment is presented publicly at a regular meeting of the authority, a brief summary of the proposed amendment shall be advertised in the legal organs of Glynn and Fulton counties, distributed to the media by news release, and published in appropriate publications of the authority. Each such advertisement, news release, and publication shall also contain:

(A) The time and place of the public hearing on the proposed amendment, which public hearing shall be held no earlier than 15 days after the latest publication of the advertisement in the legal organ of Glynn or Fulton County as required by this paragraph;

(B) Directions as to the manner of receiving comments from the public regarding the proposed amendment; and

(C) The date on which the meeting of the authority at which the proposed amendment will be considered for approval or rejection, which meeting shall not be held any sooner than 30 days after the meeting of the authority at which the proposed amendment was announced pursuant to paragraph (1) of this subsection;

(3) The authority shall transmit by certified mail or personal service copies of the information required by paragraph (2) of this subsection and a complete copy of the proposed amendment to the Speaker of the House, President of the Senate, members of the Jekyll Island—State Park Authority Oversight Committee, and Office of Legislative Counsel at least 60 days prior to the date of the meeting at which the proposed amendment will be considered. The presiding officers of each house, or the Office of

Legislative Counsel if a presiding officer is unavailable, shall then provide copies to any member of the General Assembly who makes, or has made, a standing written request;

(4) In the event the Jekyll Island—State Park Authority Oversight Committee files an objection to a proposed amendment to the master plan with the chairperson of the authority prior to the authority's taking action on the proposed amendment, then the same shall be stayed. Thereafter, by introduction of a resolution to consider the committee's objection within the first 30 days of the next regular session of the General Assembly, the objection may be considered for ratification by the General Assembly. In the event the resolution is adopted by a vote of two-thirds of the members of each branch, the amendment to the master plan shall not be adopted by the authority. In the event the resolution is ratified by a vote of less than two-thirds of the members of either house, the resolution shall be submitted to the Governor for approval or veto. In the event the resolution fails to pass both houses or is vetoed by the Governor, the amendment to the master plan may be adopted by the authority and the stay of the committee shall be lifted. In the event of the Governor's approval of the resolution, the amendment to the master plan shall be prohibited;

(5) Any proposed changes to the boundaries of the area or areas delineated on the master plan as the 65 percent of the land area of Jekyll Island which lies above water at mean high tide and over which the authority has no power to improve, lease, or sell pursuant to subsection (a) of Code Section 12-3-243 shall be surveyed and marked at least seven days prior to the public hearing required by paragraph (2) of this subsection in such a fashion as to be readily discernible on the ground by members of the public; and

(6) At the meeting of the authority which has been identified in the advertisement required by paragraph (2) of this subsection as the meeting to consider the approval or rejection of the proposed amendment, the authority shall consider in an open and public meeting the proposed amendment to the master plan which, if approved, shall become a part of the master plan, subject, however, to the provisions of paragraph (4) of this subsection."

SECTION 9.

Said part is further amended by revising subsections (a), (b), and (c) and adding a new subsection (c.1) in Code Section 12-3-247, relating to conditions on sale of residential lots and commercial property, price, and payment into state treasury, as follows:

"(a) The authority shall not sell any residential lot unless obligated to do so under the terms of a valid lease agreement entered into prior to the effective date of this Code section, and such a sale shall be made only to the person who shall hold such lease, his or her assignee, or assigns. No conveyance of the fee simple title to any residential lot shall be made until the lessee of such lot has performed all the obligations regarding the improvement and erection of structures on the lot as are imposed by the lease.

(b) The authority shall not sell any commercial property on which improvements were erected prior to March 1, 1957; and the authority shall not sell any other commercial

property unless obligated to do so under the terms of a valid lease agreement entered into prior to the effective date of this Code section, in which event the commercial property may be sold in the same manner as provided by this part for the sale of leased residential lots.

(c) All sales of residential lots and commercial property shall be made at the conversion price set by the authority in accordance with Code Section 12-3-250, provided that any person who purchases any residential lot sold by the authority shall be entitled to credit on the purchase price to the extent of all payments made by him or his assignors or predecessors in interest on such lease, provided that such credit shall not exceed the purchase price of such lot. If such credit shall equal the purchase price for such lot, the lessee shall be entitled to a conveyance of the fee simple title to such lot, and the authority shall thereupon pay into the state treasury an amount equal to the value of the state's interest in such property as determined as provided in Code Section 12-3-249. The authority shall establish proper reserves to ensure that funds will be available for such purpose.

(c.1) On and after the effective date of this Code section, the authority shall not enter into, extend, or renew any agreement providing for the sale of any residential or commercial lot on Jekyll Island, and Code Section 12-3-250 shall not apply to any new, extended, or renewed agreement."

SECTION 10.

Said part is further amended by revising Code Section 12-3-274, relating to the exemption from taxation of authority property, activities, income, and bonds, as follows:

"12-3-274.

It is found, determined, and declared that the creation of the authority and the carrying out of its corporate purpose are in all respects for the benefit of the people of this state and constitute a public purpose and that the authority will be performing an essential governmental function in the exercise of the power conferred upon it by this part. This state covenants with the holders of the bonds that the authority shall be required to pay no taxes or assessments upon any of the property acquired or leased by it, or under its jurisdiction, control, possession, or supervision, or upon its activities in the operation or maintenance of the buildings erected or acquired by it, or upon any fees, rentals, or other charges received by the authority for the use of such buildings, or upon other income received by the authority and that the authority shall be exempt from all sales and use taxes. Further, this state covenants that the bonds of the authority, their transfer, and the income therefrom shall at all times be exempt from all taxation within the state."

SECTION 11.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 12.
All laws and parts of laws in conflict with this Act are repealed.

Approved May 30, 2007.

LOCAL GOVERNMENT – CONSUMER CHOICE FOR TELEVISION ACT.

No. 368 (House Bill No. 227).

AN ACT

To amend Title 36 of the Official Code of Georgia Annotated, relating to local government, so as to provide for the expedited franchising of cable and video services by the Secretary of State; to provide for a short title; to provide for definitions; to provide franchise options for cable service providers and video service providers; to provide a process for the issuance of a state franchise; to provide for transfers, modifications, and terminations of a state franchise; to provide for franchise fees; to require customer service; to provide for public, educational, and governmental programming under a state franchise; to provide a service outlet to municipalities and counties and complimentary basic cable service or video service to public schools and public libraries over such service outlet; to provide certain limitations on requirements that may be imposed upon holders of a state franchise; to prohibit discrimination towards potential residential subscribers; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by adding a new chapter to read as follows:

"CHAPTER 76

36-76-1.
This chapter shall be known and may be cited as the 'Consumer Choice for Television Act.'

36-76-2.
As used in this chapter, the term:

(1) 'Advertising and home shopping services revenues' means the amount of a cable service provider or video service provider's nonsubscriber revenues from advertising disseminated through cable service or video service and home shopping services. The amount of such revenues that are allocable to a municipality or county shall be equal to the total amount of the cable service provider or video service provider's revenue received from such advertising and home shopping services multiplied by the ratio of the number of such provider's subscribers located in such municipality or in the unincorporated area of such county to the total number of such provider's subscribers. Such ratio shall be based on the number of such provider's subscribers as of January 1 of the current year, except that in the first year in which services are provided, such ratio shall be computed as of the earliest practical date.

(2) 'Affected local governing authority' means any municipal governing authority when any part of such municipality is located within the service area and any county governing authority when any part of the unincorporated area of such county is located within the service area.

(3) 'Cable service' means the one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. Cable service shall not include any video programming provided by a provider of commercial mobile service as defined in 47 U.S.C. Section 332(d) or video programming provided as part of and via a service that enable users to access content, information, e-mail, or other services offered over the public Internet.

(4) 'Cable service provider' means any person or group of persons:

(A) Who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system; or

(B) Who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

(5) 'Cable system' means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term shall not include:

(A) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

(B) A facility that serves subscribers without using any public right of way as defined in this Code section;

(C) A facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. Sections 201 through 276, except that such facility shall be considered a cable system, other than for purposes of 47 U.S.C. Section 541(c), to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services as that term is defined in 47 U.S.C. Section 522(12);

(D) An open video system that complies with 47 U.S.C. Section 573; or

(E) Any facility of any electric utility used solely for operating such electric utility system.

(6) 'Franchise' means an initial authorization or renewal of an authorization issued by a franchise authority, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, ordinance, certificate, agreement, or otherwise, that authorizes the construction or operation of a cable service provider or video service provider's network in the public rights of way.

(7) 'Franchise authority' means any governmental entity empowered by federal, state, or local law to grant a franchise. With regard to the holder of a state franchise within the service areas covered by such state franchise, the Secretary of State shall be the sole franchising authority. With respect to a franchise agreement with a municipal or county governing authority, that municipality or county shall be the sole franchising authority within the service areas covered by that local franchise.

(8) 'Gross revenues' means all revenues received from subscribers for the provision of cable service or video service, including franchise fees for cable service providers and video service providers, and advertising and home shopping services revenues and shall be determined in accordance with generally accepted accounting principles. Gross revenues shall not include:

(A) Amounts billed and collected as a line item on the subscriber's bill to recover any taxes, surcharges, or governmental fees that are imposed on or with respect to the services provided or measured by the charges, receipts, or payments therefor; provided, however, that for purposes of this Code section, such tax, surcharge, or governmental fee shall not include any ad valorem taxes, net income taxes, or generally applicable business or occupation taxes not measured exclusively as a percentage of the charges, receipts, or payments for services;

(B) Any revenue, such as bad debt, not actually received, even if billed;

(C) Any revenue received by any affiliate or any other person in exchange for supplying goods or services used by the provider to provide cable service or video programming;

(D) Any amounts attributable to refunds, rebates, or discounts;

(E) Any revenue from services provided over the network that are associated with or classified as noncable or nonvideo services under federal law, including, without limitation, revenues received from telecommunications services, information services other than cable service or video service, Internet access services, or directory or Internet advertising revenue, including, without limitation, yellow pages, white pages, banner advertisements, and electronic publishing advertising. Where the sale of any such noncable or nonvideo service is bundled with the sale of one or more cable services or video services and sold for a single nonitemized price, the term 'gross revenues' shall include only those revenues that are attributable to cable service or video

service based on the provider's books and records; such revenues shall be allocated in a manner consistent with generally accepted accounting principles;

(F) Any revenue from late fees not initially booked as revenues, returned check fees, or interest;

(G) Any revenue from sales or rental of property, except such property as the subscriber shall be required to buy or rent exclusively from the cable service provider or video service provider to receive cable service or video service;

(H) Any revenue received from providing or maintaining inside wiring;

(I) Any revenue from sales for resale with respect to which the purchaser shall be required to pay a franchise fee, provided the purchaser certifies in writing that it shall resell the service and pay a franchise fee with respect thereto; or

(J) Any amounts attributable to a reimbursement of costs including, but not limited to, the reimbursements by programmers of marketing costs incurred for the promotion or introduction of video programming.

(9) 'Incumbent service provider' means any cable service provider or video service provider providing cable service or video service, respectively, in a municipality or in an unincorporated area of a county on January 1, 2008.

(10) 'Original programming' means programming produced specifically for or about a municipality or county or citizens thereof and shall include public government meetings. Original programming shall not include character generated messages, video bulletin board messages, traffic cameras, or other passively produced content.

(11) 'PEG' means public, educational, or governmental.

(12) 'Public right of way' means the area in, on, along, over, or under the public roads that are part of the municipal or county road system or the state highway system.

(13) 'Service area' means the geographic territory within a municipality or unincorporated area of a county where a cable service provider or video service provider provides or has proposed to offer cable service or video service pursuant to a franchise.

(14) 'Subscriber' means any person or entity lawfully receiving video service from a video service provider or cable service from a cable service provider.

(15) 'Video programming' means programming provided by, or generally considered comparable to programming provided by, a television broadcast station, as set forth in 47 U.S.C. Section 522(20).

(16) 'Video service' means the provision of video programming through wireline facilities located at least in part in the public rights of way without regard to delivery technology, including Internet protocol technology. This term shall not include any video programming provided by a provider of commercial mobile service as defined in 47 U.S.C. Section 332(d) or video programming provided as part of and via a service that enables users to access content, information, e-mail, or other services offered over the public Internet.

(17) 'Video service provider' means an entity providing video service as defined in this Code section. This term shall not include a cable service provider.

36-76-3.

(a)(1) Any entity or person seeking to provide cable service or video service in this state after January 1, 2008, at the discretion of the cable service provider or video service provider, may elect from among the franchise options as set forth in this Code section. A cable service provider or video service provider shall not provide cable service or video service without a franchise obtained pursuant to this chapter.

(2) A cable service provider or video service provider may elect to negotiate a local cable service or video service franchise agreement with a municipal or county franchise authority duly authorized under the laws of Georgia and may enter into a negotiated cable television franchise agreement in accordance with Title VI of the Communications Act of 1934, as amended, 47 U.S.C. Section 521 et seq., or a video service franchise agreement in accordance with applicable state and federal law that establishes the terms and conditions for the franchise agreement within the jurisdictional limits of that municipality or county. A local cable service or video service franchise agreement entered into after January 1, 2008, shall remain in force and effect through its expiration date notwithstanding subsection (g) of Code Section 36-76-4.

(3) A cable service provider or video service provider may elect to adopt the terms of a negotiated franchise agreement entered into between a cable service provider or video service provider and a municipal or county franchise authority in the service area in which the cable service provider or video service provider desires to provide service. The municipal or county franchise authority shall be required to enter into any such negotiated franchise agreement upon the same terms and conditions to any requesting cable service provider or video service provider. A local cable service or video service franchise agreement that is adopted by a cable service provider or video service provider after January 1, 2008, shall remain in force and effect through its expiration date notwithstanding subsection (g) of Code Section 36-76-4.

(4) A cable service provider or video service provider may elect after January 1, 2008, to file an application for a state franchise in one or more specified service areas with the Secretary of State in accordance with the procedures set forth in this chapter.

(b) The alternatives in subsection (a) of this Code section shall not be mutually exclusive. A cable service provider or video service provider may elect after January 1, 2008, to negotiate with a municipal or county franchise authority to enter into a franchise agreement within a specified service area and may also obtain a state franchise for a different service area. A cable service provider or video service provider shall not operate under a franchise agreement with a municipal or county governing authority and a state franchise from the Secretary of State for the same service area.

36-76-4.

(a) To receive a state franchise, a cable service provider or video service provider shall file an application for a state franchise with the Secretary of State, with a copy of such application provided simultaneously to each affected municipal or county governing

authority at least 45 days prior to offering cable service or video service to subscribers within a specified service area.

(b) The Secretary of State may impose a fee not to exceed $500.00 for a state franchise application and a fee not to exceed $250.00 for an amendment to a state franchise.

(c) The application for a state franchise shall consist of an affidavit signed by an officer or general partner of the applicant that contains each of the following:

(1) An affirmative declaration that the applicant shall comply with all applicable federal and state laws and regulations, including municipal and county ordinances and regulations regarding the placement and maintenance of facilities in the public right of way that are generally applicable to all users of the public right of way and specifically including Chapter 9 of Title 25, the 'Georgia Utility Facility Protection Act';

(2) A description of the applicant's service area, which description shall be sufficiently detailed so as to allow a local government to respond to subscriber inquiries, including the name of each municipal or county governing authority within the service area. For the purposes of this paragraph, an applicant may, in lieu of or as supplement to a written description, provide a map on 8 1/2 by 11 inch paper that is clear and legible and that fairly depicts the service area by making reference to the municipal or county governing authority to be served. If the geographical area is less than an entire municipality or county, the map shall describe the boundaries of the geographic area to be served in clear and concise terms;

(3) The location of the applicant's principal place of business, the name or names of the principal executive officer or officers of the applicant, information concerning payment locations or addresses, and general information concerning equipment returns; and

(4) Certification that the applicant is authorized to conduct business in the State of Georgia and that the applicant possesses satisfactory financial and technical capability to provide cable service or video service and a description of such capabilities. Such certification shall not be required from an incumbent service provider or any cable service provider or video service provider that has wireline facilities located in the public right of way as of January 1, 2008; and

(5) Notice to the affected local governing authority of its right to designate a franchise fee pursuant to Code Section 36-76-6.

(d) If an application is incomplete, the Secretary of State shall notify the applicant within ten days of the receipt of such application and shall provide the applicant with a reasonable period of time in which to provide a complete application. If no such notification is made within ten days of the receipt of the application, the application shall be deemed complete. Within 45 days of the receipt of a completed application, the Secretary of State shall, except as set forth in subsection (f) of this Code section, issue a state franchise that contains the following:

(1) A nonexclusive grant of authority to provide cable service or video service as requested in the application;

(2) A nonexclusive grant of authority to construct, maintain, and operate facilities along, across, or on the public right of way in the delivery of cable service or video service, subject to applicable federal and state laws and regulations, including municipal and county ordinances and regulations, regarding the placement and maintenance of facilities in the public right of way that are generally applicable to all users of the public right of way and specifically including Chapter 9 of Title 25, the 'Georgia Utility Facility Protection Act'; and

(3) The expiration date of the state franchise, which shall be ten years from the date of issuance, subject to renewal.

(e) The failure of the Secretary of State to issue a state franchise within 45 days of the receipt of a completed application from an incumbent service provider or a cable service provider or video service provider that has wireline facilities located in any public right of way as of January 1, 2008, shall constitute issuance of the requested state franchise to the applicant without further action required by the applicant. The failure of the Secretary of State to issue a state franchise within 45 days of the receipt of a completed application from a cable service provider or video service provider that does not have an existing franchise with a municipal or county governing authority or that does not have wireline facilities located in any public right of way as of January 1, 2008, shall constitute temporary issuance of the requested state franchise to the applicant subject to the provisions of subsection (f) of this Code section.

(f) A municipal or county governing authority that reasonably believes an applicant that has not yet accessed rights of way in that municipality or unincorporated area of a county and does not possess satisfactory financial and technical capability to provide cable service or video service or is not duly authorized to conduct business in Georgia shall object to the issuance of a state franchise before it is officially issued by the Secretary of State. If a municipal or county governing authority objects to the issuance of a state franchise on these grounds, the Secretary of State shall consider whether the objection is well founded and shall make a determination as to whether to grant the state franchise notwithstanding the objection or to deny or suspend the application pending the receipt of information sufficient to demonstrate the applicant has satisfactory financial and technical capability. If the Secretary of State has not acted on the objection of a municipal or county governing authority's objection and a state franchise is issued as set forth in subsection (e) of this Code section, then such temporary issuance of the state franchise shall be subject to the Secretary of State's determination on the objection.

(g)(1) At any time after January 1, 2008, an incumbent service provider may file an application for a state franchise pursuant to this Code section with the Secretary of State with a copy provided to each affected municipal or county governing authority except as set forth in paragraphs (2) and (3) of subsection (a) of Code Section 36-76-3. Upon the Secretary of State issuing such state franchise, any existing franchise for the service area covered by the state franchise shall, subject to the continuation of PEG support

obligations in paragraph (4) of this subsection, terminate and be of no further force or effect.

(2) An incumbent service provider that elects to terminate an existing franchise for the service area covered by the state franchise under this subsection shall remain subject to the contractual rights, duties, and obligations incurred by the incumbent service provider under the terms and conditions of the terminated local franchise that are owed to any private person, including a subscriber.

(3) As used in this subsection, the term 'private person' shall not include:

(A) The municipal or county governing authority that issued the terminated local franchise;

(B) A political subdivision, government agency, or authority of the state not described in subparagraph (A) of this paragraph; or

(C) Any official, agent, or employee acting in an official capacity of the municipal or county governing authority that issued the terminated local franchise.

(4) An incumbent service provider that elects to terminate a franchise under this subsection shall continue to provide PEG access support, as such existed on January 1, 2007, under the same terms as the terminated local franchise had it not been terminated until the local franchise would have expired under its own terms.

(5) Notwithstanding a termination of a local franchise pursuant to this subsection, a municipality or county shall be entitled to operate its existing PEG channel or channels, as such existed on January 1, 2007, relating to the number of channels and the usage criteria for such channels under the same terms as the terminated local franchise had it not been terminated, pursuant to this subsection, until July 1, 2012. The 12 month development period for PEG channels set forth in subsection (a) of Code Section 36-76-8 shall not apply to existing PEG channels operating under the entitlement provisions of this subsection.

(6) The 12 month development period for PEG channels set forth in subsection (a) of Code Section 36-76-8 shall not apply to channels being operated at the time that any holder of a state franchise adopts or renews a state franchise after July 1, 2012.

(7) An incumbent service provider that elects to terminate a franchise under this subsection, shall, until July 1, 2012, continue to provide access on the nonbasic or digital tier to any municipality or county that has an activated public safety training channel as of January 1, 2007. This channel shall be used exclusively for the purpose of training public safety personnel. After July 1, 2012, the state franchise holder shall be entitled to use other reasonable, readily accessible means to accomplish the purpose of the channel.

(8) Each holder of a state franchise shall have the obligation to provide access to the same number of PEG channels pursuant to Code Section 36-76-8 and the additional PEG support cash payments specified in this paragraph for PEG access facilities in a service area as the incumbent service provider with the most subscribers in such service area as of January 1, 2007, which obligation shall continue until the local franchise would have expired under its own terms as specified in paragraph (4) of this subsection; provided,

however, that if a local franchise would have expired before July 1, 2012, the holder of a state franchise shall continue to provide access to the same number of PEG channels until July 1, 2012, as provided in paragraph (5) of this subsection. To the extent such incumbent service provider provides PEG access support during said period in the form of periodic payments to the municipal or county governing authority equal to a percentage of gross revenue or a prescribed per subscriber amount, the state franchise holder shall be obligated to make the same periodic payments to the governing authority at the same time and equal to the same percentage of gross revenue or prescribed per subscriber amount. To the extent such incumbent service provider provides PEG access support to the applicable governing authority during said period in the form of a lump sum payment that remains unsatisfied as of January 1, 2008, the holder of a state franchise shall be obligated to provide a lump sum payment to said authority based on its proportion of the total number of cable service and video service subscribers of all service providers in such service area. No payments shall be due under this paragraph until the municipality or county notifies the respective providers, in writing, of the percentage of gross revenues, the per subscriber amount, or the lump sum payment amount and the expiration date of the local franchise obtaining such obligations. The holder of a state franchise may designate that portion of the subscriber's bill attributable to any fee imposed pursuant to this paragraph as a separate item on the bill and recover such amount from the subscriber.

36-76-5.

(a) A state franchise shall be fully transferable to any successor in interest to the applicant. A notice of transfer shall be filed by the transferee with the Secretary of State with a copy provided to each affected municipal or county governing authority within 45 days of such transfer. The transfer notification shall consist of an affidavit signed by an officer or general partner of the transferee that contains each of the following:

(1) An affirmative declaration that the applicant shall comply with all applicable federal and state laws and regulations, including municipal and county ordinances and regulations, regarding the placement and maintenance of facilities in any public right of way that are generally applicable to all users of the public right of way and specifically including Chapter 9 of Title 25, the 'Georgia Utility Facility Protection Act';

(2) A description of the transferee's service area, including the name of each municipal or county governing authority within the service area;

(3) The location of the transferee's principal place of business and the name or names of the principal executive officer or officers of the transferee; and

(4) A description of material changes, if any, of the information set forth in the applicant's initial application for a state franchise.

(b) Any outstanding liabilities that have become due and are still owed to a municipal or county governing authority under a state franchise issued pursuant to this chapter shall be fully transferable under this Code section to any successor in interest to the applicant.

(c) The failure of the Secretary of State to issue an amended state franchise within 45 days of the receipt of a completed transfer notice shall constitute issuance of the requested amended state franchise to the transferee without further action required.
(d) A cable service provider or video service provider may modify its service area covered by the state franchise by notifying the Secretary of State of changes to the service area, with a copy provided to each affected municipal or county governing authority, at least 20 days prior to the effective date of such change. Such notification shall contain a geographic description of the new service area or areas and a list of each municipal or county governing authority within the service area.
(e) A state franchise issued pursuant to this chapter may be terminated by the cable service provider or video service provider by submitting a notice of termination to the Secretary of State with a copy provided to each affected municipal or county governing authority. Such notice shall identify the cable service provider or video service provider, the affected service area, and the effective date of such termination, which shall not be more than 60 days from the date of filing the notice of termination.

36-76-6.
(a) The holder of a state franchise, whether a cable service provider or a video service provider, shall pay to each affected local governing authority which complies with this Code section a franchise fee which shall not exceed the maximum percentage rate permitted in 47 U.S.C. Section 542(b) of such holder's gross revenues received from the provision of cable service or video service to subscribers located within such holder's service area.

(1) Each affected local governing authority or its authorized designee shall provide written notice to the Secretary of State and each applicant for or holder of a state franchise with a service area located within that affected local governing authority's jurisdiction of the franchise fee rate that applies to the applicant for or holder of such state franchise. The applicant for or holder of a state franchise shall start assessing the franchise fee within 15 days of receipt of written notice from the affected local governing authority or its authorized designee and shall not be required to pay such franchise fee until the expiration of 15 days after receipt of such written notice. Any incumbent service provider who obtains a state franchise under paragraph (1) of subsection (g) of Code Section 36-76-4 shall pay its existing franchise fee during the 15 day period after receipt of written notice of the new fee. The franchise fee rate shall be uniformly applicable to all cable service providers and video service providers that obtain a state franchise within the affected local governing authority. For purposes of this Code section, an authorized designee is an agent authorized by charter or other act of the affected local governing authority.
(2) Any affected local governing authority may change the franchise fee applicable to holders of a state franchise once every two years. The affected local governing authority or its authorized designee shall provide written notice to the Secretary of State and the

applicants for or holders of a state franchise with a service area within that affected local governing authority's jurisdiction of the new franchise fee rate. The holder of a state franchise shall start assessing the new franchise fee within 45 days of receipt of written notice of the change from the affected local governing authority or its authorized designee. The franchise fee rate shall be uniformly applicable to all cable service providers and video service providers that obtain a state franchise within the affected local governing authority's jurisdiction.

(b) Such franchise fee shall be paid directly to each affected local governing authority within 30 days after the last day of each calendar quarter. Such payment shall be considered complete if accompanied by a statement showing, for the quarter covered by the payment:

(1) The aggregate amount of the state franchise holder's gross revenues, specifically identifying subscriber and advertising and home shopping services revenues under this chapter insofar as the franchise holder's existing billing systems include such capability, attributable to such municipality or unincorporated areas of the county; and

(2) The amount of the franchise fee payment due to such municipality or county.

In the event that franchise fees are not paid on or before the dates specified above, then the affected local governing authority shall provide written notice to the franchise holder giving the cable service provider or video service provider 15 days from the date of the franchise holder's receipt of such notice to cure any such nonpayment. In the event franchise fees are not remitted to the affected local government authority postmarked on or before the expiration of the 15 day cure period, then the holder of the state franchise shall pay interest thereon at a rate of 1 percent per month to the affected local governing authority. If the 15 day cure period expires on Saturday, Sunday, or a legal holiday, the due date shall be the next business day. Moreover, the franchise holder shall not be assessed interest on late payments if franchise payments were submitted in error to a neighboring local governing authority.

(c) Each affected local governing authority may, no more than once annually, audit the business records of the state franchise holder to the extent necessary to ensure payment in accordance with this Code section. For purposes of this subsection, an audit shall be defined as a comprehensive review of the records of the holder of a state franchise. Once any audited period of a state franchise holder has been the subject of a requested audit, such audited period of such state franchise holder shall not again be the subject of any audit. In the event of a dispute concerning the amount of the franchise fee due to an affected local governing authority under this Code section, an action may be brought in a court of competent jurisdiction by an affected local governing authority seeking to recover an additional amount alleged to be due or by a state franchise holder seeking a refund of an alleged overpayment; provided, however, that any such action shall be brought within three years following the end of the quarter to which the disputed amount relates. Such time period may be extended by written agreement between the state issued franchise holder and such affected local governing authority. Each party shall bear the party's own costs

incurred in connection with any such examination or dispute. In the event that an affected local governing authority files an action to recover alleged underpayments of franchise fees and a court of competent jurisdiction determines the cable service provider or video service provider has underpaid franchise fees due for any 12 month period by 10 percent or more, the cable service provider or video service provider may be required to pay the affected local governing authority its reasonable costs associated with the audit along with any franchise fee underpayments; provided, however, late payments shall not apply.

(d) The statements made pursuant to subsection (b) of this Code section and any records or information furnished or disclosed by a cable service provider or video service provider to an affected local governing authority pursuant to subsection (c) of this Code section shall be exempt from public inspection under Code Section 50-18-70.

(e) No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim an affected local governing authority may have for further or additional sums payable as a franchise fee.

(f) Any amounts overpaid by the holder of a state franchise shall be deducted from future franchise payments.

(g) The holder of a state franchise may designate that portion of a subscriber's bill attributable to any franchise fee imposed pursuant to this Code section as a separate item on the bill and recover such amount from the subscriber; provided, however, that such separate listing shall be referred to as a 'franchise' or a 'franchise fee.'

(h) No affected local governing authority shall levy any additional tax, license, fee, surcharge, or other assessment on a cable service provider or video service provider for or with respect to the use of any public right of way other than the franchise fee authorized by this Code section. Nor shall an affected local governing authority levy any other tax, license, fee, or assessment on a cable service provider or video service provider or its subscribers that is not generally imposed and applicable to a majority of all other businesses. The franchise fee authorized by this Code section shall be in lieu of any permit fee, encroachment fee, degradation fee, or other fee that could otherwise be assessed on a state issued franchise holder for the holder's occupation or work within the public right of way; provided, however, that nothing in this Code section shall restrict the right of any municipal or county governing authority to impose ad valorem taxes, sales taxes, or other taxes lawfully imposed on a majority of all other businesses within such municipality or county.

36-76-7.

(a) The holder of a state franchise shall comply with the customer service standards as set forth in 47 C.F.R. 76.309(c). No franchising authority shall have the power to require the holder of a state franchise to comply with any customer service standards other than those set forth in this Code section.

(b) Except as provided in paragraph (2) of subsection (c) of this Code section, each affected local governing authority shall receive and handle complaints from subscribers of

the holder of a state franchise that reside in the affected local governing authority's jurisdiction.

(c)(1) By December 31, 2007, the Governor's Office of Consumer Affairs shall conduct a rulemaking to establish a uniform set of rules, which may include fines and penalties, pursuant to which an affected local governing authority shall resolve subscriber complaints. Said rules shall include a requirement that the cable service provider or video service provider participate in mandatory nonbinding mediation with the affected local governing authority and the subscriber if the issue cannot be resolved between the cable service provider or video service provider and the subscriber. Said rules shall apply only until 50 percent of the potential subscribers within an affected local governing authority are offered service by two or more cable service providers or video service providers holding a state franchise or a local franchise.

(2) After such time as 50 percent of the potential subscribers within an affected local governing authority are being offered service by two or more cable service providers or video service providers holding a state franchise or a local franchise, an affected local governing authority may, in its discretion, by the adoption of a resolution or ordinance, discontinue receiving and handling all subscriber inquires, billing issues, and other complaints for state franchise holders. Notwithstanding any other provision of law, where an affected local governing authority discontinues receiving and handling subscriber inquires, billing issues, and other complaints relating to state franchise holders by adoption of a resolution or ordinance pursuant to this paragraph, bills to subscribers by cable service providers or video service providers holding a state franchise shall not include the contact information of such affected local governing authority for the purpose of directing or initiating complaints or making other such subscriber inquires.

36-76-8.

(a) No later than 12 months after receipt of a written request by a municipal or county governing authority, the holder of a state franchise shall designate capacity in its network to allow for the airing of noncommercial PEG programming required by this Code section.

(b)(1) Subject to the usage criteria set forth in this subsection, a municipal or county governing authority that does not have PEG access channels activated under the incumbent service provider's franchise agreement as of January 1, 2008, may request a sufficient amount of capacity on its network to support up to three PEG channels for a municipality in this state having a population of 50,000 or more according to the United States decennial census of 2000 or any future such census or an unincorporated area of a county which is located in a county in this state having a population of 50,000 or more according to the United States decennial census of 2000 or any future such census or up to two PEG channels for a municipality in this state having a population of 50,000 or less according to the United States decennial census of 2000 or any future such census or an unincorporated area of a county which is located in a county in this state having a population of 50,000 or less according to the United States decennial census of 2000, and

the cable service provider or video service provider shall designate such sufficient amount of capacity. No cable service provider or video service provider shall be required to provide more than three PEG access channels on its network within a municipality or unincorporated area of a county if there does not exist at the time of the state franchise more than three active PEG channels in such municipality or unincorporated area of the county.

(2) To qualify for the first PEG channel on the basic or analog tier of service, the written request of the municipality or county shall include a certification that it has produced at least 15 hours of nonduplicative original programming for production in the first month of operation and that the municipality or county shall continue to produce at least 15 hours of nonduplicative original programming for each month that the channel is provided.

(3) Alternatively, to qualify for the first PEG channel on the basic or analog tier of service, two or more municipalities or counties may collectively include a certification that they have produced at least 15 hours of nonduplicative original programming for production in the first month of operation and that the municipalities or counties shall continue to produce at least 15 hours of nonduplicative original programming for each month that the channel is provided.

(4) To qualify for a second PEG channel on the basic or analog tier of service, the municipality or county shall certify that the first channel is being substantially utilized, and that upon activation, the second PEG channel shall also be substantially utilized. For purposes of this subsection, PEG channels shall be considered 'substantially utilized' when 12 continuous hours of content are programmed on that channel each calendar day. In addition, at least 75 percent of the 12 hours of programming for each business day over each calendar quarter, on average, shall be nonduplicative programming. Nonduplicative programming shall include the first three broadcasts in a day of a meeting of an elected government body.

(5) To qualify for a third PEG channel, a municipality in this state having a population of 50,000 or more according to the United States decennial census of 2000 or any future such census or an unincorporated area of a county which is located in a county in this state having a population of 50,000 or more according to the United States decennial census of 2000 or any future such census shall certify that the channel shall be programmed for at least eight continuous hours of nonduplicative content per day. The third PEG channel shall only be available on the nonbasic digital tier.

(6) Any municipality or county that has not obtained a second PEG channel on the basic or analog tier may qualify for a second PEG channel on the nonbasic digital tier by certifying that the channel shall be programmed for at least eight continuous hours of nonduplicative content per day.

(7) Any PEG channel capability provided pursuant to this Code section that does not comply with the usage criteria set forth in this subsection or is not substantially utilized by the municipality or county shall no longer be made available after reasonable notice

is provided to the municipality or county but may be programmed at the franchise holder's discretion. At such time as the municipality or county certifies to the franchise holder that it shall meet the usage criteria for that particular channel, the cable service provider or video service provider shall restore the previously lost channel. However, the franchise holder shall be under no obligation to carry that channel on a basic or analog tier.

(c) Upon request by a municipality or county that does not have an activated PEG channel, the state franchise holder shall provide access to one nonexclusive PEG channel for the purpose of providing public, educational, and government programming. This nonexclusive channel shall be available as an additional option to municipalities and counties and shall not eliminate the requirements of subsection (b) of this Code section.

(d) In the event that the provision of video service and cable service is federally mandated to be digitally provided, the franchise holder shall be entitled to satisfy the PEG obligations by locating the channels on any channel provided in the basic subscription service offered by the provider.

(e) Municipalities, counties, and cable service providers and video service providers shall cooperate in the sharing of channel capacity to provide PEG access for municipalities and counties served by the cable service provider or video service provider.

(f) The holder of a state franchise shall designate capacity on its system sufficient to allow the provision of the same number of PEG access channels that a municipal or county governing authority has activated under the incumbent service provider's franchise agreement as of January 1, 2008.

(g) The operation of any PEG access channel provided pursuant to this Code section and the production of programming thereon, including all capital costs and costs of production, shall be the responsibility of the municipality or the county receiving the benefit of such channel, and the holder of a state franchise shall only have the responsibility to transmit such channel to subscribers. If the holder elects not to seek interconnection with the incumbent under subsection (i) of this Code section or if the incumbent service provider and the holder of a state franchise cannot reach mutual agreement on interconnection terms, the holder of a state franchise shall be responsible for providing one location of connectivity to each PEG access channel up to the first 200 feet from the holder's activated wireline video programming distribution facility located in the holder's designated service area.

(h) The municipality or the county shall ensure that all transmissions of content and programming provided by or arranged by them to be transmitted over a PEG channel by a holder of a state franchise are provided and submitted to the cable service provider or video service provider in a manner or form that is capable of being accepted and transmitted by such cable service provider or video service provider over its system without further alteration or change in the content or transmission signal and which is compatible with the technology or protocol utilized by the cable service provider or video service provider to deliver its cable services or video services. The provision of PEG content to

the cable service provider or video service provider shall constitute authorization for such cable service provider or video service provider to carry such content on the PEG channel of the municipality or county including, at the cable service provider or video service provider's option, providing such content beyond the jurisdictional boundaries of the municipality or county to the extent permitted by federal law.

(i) Where technically feasible, the holder of a state franchise and an incumbent service provider shall use reasonable efforts to interconnect their systems on mutually acceptable and reasonable terms for the purpose of providing PEG programming. Interconnection may be accomplished by direct cable microwave link, satellite, or other reasonable method of connection. Holders of a state franchise and incumbent service providers shall not unreasonably withhold interconnection of PEG channels.

(j) A holder of a state franchise shall not be required to interconnect for or otherwise transmit commercial PEG programming content or PEG content that is branded with the logo, name, or other identifying marks of another cable service provider or video service provider, and a municipality or county may require a cable service provider or video service provider to remove its logo, name, or other identifying marks from PEG content that is to be made available to another provider.

36-76-9.

A cable service provider or video service provider shall, upon written request by a municipality or county, install, at no charge, one service outlet to a demarcation point located on the outside of any designated municipal or county building or multibuilding complex, provided such building demarcation point is within 125 feet from the cable service provider or video service provider's activated distribution point of connection. A cable service provider or video service provider shall not be required to extend its facilities beyond the appropriate demarcation point located outside the building or to perform any inside wiring. The cable service provider or video service provider shall provide complimentary basic cable service or video service to public schools and public libraries over that one service outlet free of charge, which service shall not be used for commercial purposes. The cable service provider or video service provider shall provide complimentary basic cable service or video service to public buildings other than public schools and public libraries only to the extent such a complimentary service arrangement existed under the terms of a local franchise agreement in effect as of January 1, 2007, and shall continue only until the local franchise agreement would have expired under its own terms; provided, however, that such provider shall not be precluded from providing such additional complimentary service at its option. The municipality or county may not receive service at the same building from more than one cable service provider or video service provider at a time under this Code section.

36-76-10.

No franchising authority, state agency, or political subdivision of the state shall impose any build-out requirement on system construction or service deployment on a holder of a state franchise. This chapter shall occupy the entire field of franchising or otherwise regulating cable service and video service. An affected local governing authority's power to regulate the holder of a state franchise shall be limited to:

(1) A requirement that the holder of a state franchise who is providing cable service or video service within the municipality or unincorporated area of the county shall notify each affected local governing authority at least ten days before providing service in such municipality or county. A municipal or county governing authority may require the holder of a state franchise to update the description of the service area provided in the application for a state franchise annually and may also require the holder of a state franchise to maintain a point of contact that shall be available during normal business hours;

(2) The establishment of reasonable guidelines regarding the use of PEG access channels;

(3) The lawful and reasonable exercise of the police powers of the municipal or county governing authority to the extent reasonably necessary to protect the health, safety, and welfare of the public;

(4) The enactment and enforcement of lawful and reasonable laws and rules and municipal or county ordinances and regulations concerning excavation, permitting, bonding requirements, indemnification requirements, and placement and maintenance of facilities in any public right of way that are generally applicable to all users of any public right of way, except to the extent specifically precluded by subsection (h) of Code Section 36-76-6; and

(5) The lawful and reasonable exercise of the rights established in this chapter.

36-76-11.

(a) A holder of a state franchise shall not deny access to service to any group of potential residential subscribers because of the income of the residents in the local area in which such group resides.

(b) For purposes of determining whether a cable service provider or video service provider has violated subsection (a) of this Code section, cost, density, distance, and technological or commercial limitations shall be taken into account. An alleged violation of subsection (a) of this Code section shall only be considered within the description of the service area set forth in an application or amended application for a state franchise. The inability to serve an end user because a holder is prohibited from placing its own facilities in a building or property shall not be found to be a violation of subsection (a) of this Code section. Use of an alternative technology or service arrangement that provides comparable content, service, and functionality shall not be considered a violation of subsection (a) of this Code

section. This Code section shall not be construed as authorizing any build-out requirements on a cable service provider or video service provider.

(c) Any potential residential subscriber or group of residential subscribers who believes it is being denied access to services in violation of subsection (a) of this Code section may file a complaint with the affected local governing authority, along with a clear statement of the facts and the information upon which it is relying to support the complaint. Upon receipt of any such complaint, the affected local governing authority shall serve a copy of the complaint and supporting materials upon the subject cable service provider or video service provider, which shall have 60 days after receipt of such information to submit a written answer and any other relevant information the provider wishes to submit to the affected local governing authority in response to the complaint. If the affected local governing authority is not satisfied with the response, the affected local governing authority shall compel the cable service provider or video service provider to participate in nonbinding mediation. If the mediation does not resolve the matter to the satisfaction of the affected local governing authority, the affected local governing authority may file a complaint with a court of competent jurisdiction. No affected local governing authority shall file an action in court without having participated in a mediation of the complaint. If such court finds that the holder of a state franchise is in material noncompliance with this Code section, the holder shall have a reasonable period of time, as specified by the court, to cure such noncompliance. The court may also award the affected local governing authority its reasonable costs and attorneys fees in seeking enforcement of subsection (a) of this Code section."

SECTION 2.

This Act shall become effective on July 1, 2007.

SECTION 3.

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

Approved May 30, 2007.

LOCAL GOVERNMENT - PUBLIC WATER SYSTEMS; PROHIBIT REQUIRED CONNECTION.

No. 369 (House Bill No. 247).

AN ACT

To amend Title 36 of the Official Code of Georgia Annotated, relating to local government, so as to change certain provisions relating to acquisition and construction of water and sewage systems; to prohibit counties, municipalities, and local authorities from requiring connection with or use of water supplied by a public water system except when other water is unfit; to prohibit charges or fees for services made available but not used; to provide for applicability; to provide for exceptions; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by revising Code Section 36-34-5, relating to acquisition and construction of water and sewage systems, as follows:

"36-34-5.

(a) In addition to the other powers which it may have, any municipal corporation shall have the power under this chapter:

(1) To acquire by gift, by purchase, or by the exercise of the right of eminent domain, to construct, to reconstruct, to improve, to better, and to extend any water system or sewage system, or both, within the municipal corporation;

(2) To acquire by gift, by purchase, or by the exercise of the right of eminent domain any lands, easements, rights in lands, and water rights in connection therewith;

(3) To operate and maintain any such systems for its own use and for:

(A) Public and private persons within the territorial boundaries of the municipal corporation who use the system; or

(B) Persons to whom the system is made available at the property owned by such persons; and

(4) To prescribe, revise, and collect rates, fees, tolls, or charges for the services, facilities, or commodities:

(A) Furnished to persons or users; or

(B) Made available by such systems to the property owner at such owner's property. When services are available but not used, the maximum rates, fees, tolls, or other charges imposed shall not exceed the minimum charge or fee imposed on a user of such system.

(b) The provisions of subparagraphs (a)(3)(B) and (a)(4)(B) of this Code section shall apply with respect to an individual residential property owner only in the case of a municipality or public water system or project thereof that is exempted from the provisions of subsections (a) and (b) of Code Section 36-60-17.1 pursuant to subsection (c) of such Code section."

SECTION 2.

Said title is further amended by adding a new Code section to read as follows:

"36-60-17.1.

(a) No county, municipality, or local authority shall require a single-family residential property owner or farm served by a private well to connect with or use water supplied by a public water system, except where necessary to preclude the use of water obtained from such private well that is demonstrably unfit for human consumption or other intended use; nor shall it require such single-family residential property owner or farm whose water lines are not connected with such public water system to pay any charge or fee for water supply services made available but not used.

(b) Nothing in subsection (a) of this Code section shall preclude the repair or maintenance of a well serving a single-family residence so as to meet the requirements for allowing continued use of the same by a single-family residential property owner or farm without connecting to a public water system or payment of charges or fees in accordance with subsection (a) of this Code section. Such repairs shall be the sole responsibility of such owner.

(c) Subsections (a) and (b) of this Code section shall not apply to:

(1) Any public water system having more than a total of 70,000 active service connection accounts or more than 200 such accounts per square mile of total area served;

(2) A public water system with respect to a single-family residential property owner or farm who has been mailed written notice to his or her address of record on the property tax rolls by the appropriate county, municipality, or local authority by certified mail of his or her right to opt out of connecting with such system and paying charges or fees for system services made available but not used, if such property owner did not notify the county, municipality, or local authority in writing on a form provided thereby of his or her decision to exercise that option within 45 days after mailing of such notice by the county, municipality, or local authority;

(3) Any project of a public water system for which revenue bonds have been validated, issued, and sold prior to January 1, 2008; or

(4) Any public water system funded primarily through a federal or state grant that contains stipulations in such grant requiring the county, municipality, or local authority to levy a charge or fee for water supply services made available but not used. For all state grants, loans, or contracts for services issued on and after July 1, 2007, no state grant, loan, or contract for services funding any project of a public water system shall contain any stipulations requiring a county, municipality, or local authority to levy a

charge or fee for water supply services made available but not used or requiring a county, municipality, or local authority to require single-family property owners or farms to connect with or use water supplied by a public water system, except where necessary to preclude the use of water obtained from another source that is demonstrably unfit for human consumption or other intended use. For the purposes of this paragraph, a federal grant is defined as money provided directly to a county or municipality. Federal money provided to a revolving loan fund or to the Georgia Environmental Facilities Authority or such other mechanism shall not be considered a federal grant."

SECTION 3.

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

Approved May 30, 2007.

LOCAL GOVERNMENT – CONSERVATION – INFRASTRUCTURE DEVELOPMENT DISTRICTS; POLLUTANTS; GROUND WATER.

No. 372 (Senate Bill No. 200).

AN ACT

To amend Title 36 of the Official Code of Georgia Annotated, relating to local government, so as to provide for a comprehensive program for the creation of infrastructure development districts; to provide for a short title; to provide for definitions; to provide for the powers, duties, and authority of infrastructure development districts; to provide for a board to administer infrastructure development districts; to provide for appointment or election of members of an infrastructure development district board; to provide for fees and assessments; to provide for the debt of infrastructure development districts; to provide for bonds, notes, and other obligations of infrastructure development districts; to provide for the form of bonds; to provide for consolidation, termination, or dissolution of infrastructure development districts; to provide for notice of the creation of the district; to amend Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, so as to change certain provisions regarding permits for discharging pollutants into waters; to change certain provisions regarding permits for surface-water withdrawal, diversion, or impoundment; to change certain provisions regarding permits for withdrawing, obtaining, or using ground water; to provide for related matters; to provide a contingent effective date; to provide for

automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by adding a new Chapter 93 to read as follows:

"CHAPTER 93

36-93-1.

This chapter shall be known and may be cited as the 'Georgia Smart Infrastructure Growth Act of 2007.'

36-93-2.

As used in this chapter, the term:

(1) 'Additional projects' means district projects beyond those identified in the petition for creation of the district.

(2) 'Appropriate local government' means:

(A) Each county governing authority that has approved a resolution or ordinance authorizing it to create and regulate districts as provided under this chapter if the district or proposed district is located wholly in the unincorporated part of one or more counties;

(B) Each municipal governing authority that has approved a resolution or ordinance authorizing it to create and regulate districts as provided under this chapter if the district or proposed district is located wholly within one or more municipalities; or

(C) Each county governing authority and each municipal governing authority that has approved a resolution or ordinance authorizing it to create and regulate districts as provided under this chapter if the district or proposed district is located partially in the unincorporated area of one or more counties and partially within one or more municipalities.

For the purposes of this chapter, the term 'appropriate local government' may be read as singular or plural.

(3) 'Assessable improvements' means, without limitation, any and all public improvements, infrastructure, and community facilities that a district is empowered to provide in accordance with this chapter.

(4) 'Assessment' and 'assessments' means:

(A) District project assessments assessed pursuant to subsection (a) of Code Section 36-93-14;

(B) Maintenance and operation special assessments assessed pursuant to subsection (b) of Code Section 36-93-14; or

(C) Any assessment assessed pursuant to subsections (a) and (b) of Code Section 36-93-14.

(5) 'Board' means the governing board of a district or, if the board has been abolished, the board, body, or commission succeeding to the principal functions of the board.

(6) 'Bond' means any bonds of a district which are authorized to be issued under the Constitution and laws of this state, but shall not include notes or other obligations of the district.

(7) 'Cost,' when used with reference to any project, includes, but is not limited to:

(A) The expense of determining the feasibility or practicability of acquisition, construction, or reconstruction;

(B) The cost of surveys, estimates, plans, and specifications;

(C) The cost of improvements and of insuring such improvements;

(D) Engineering, fiscal assessment, and legal expenses and charges;

(E) The cost of all labor, materials, machinery, and equipment;

(F) The cost of all lands, properties, rights, easements, and franchises acquired;

(G) Financing charges;

(H) The creation of operation and maintenance reserve funds, debt service reserve funds, repair and replacement reserve funds, and debt service funds;

(I) Working capital;

(J) Interest charges incurred or estimated to be incurred on money borrowed prior to and during construction and acquisition and for such reasonable period of time after completion of construction or acquisition as the board may determine;

(K) The cost of issuance of bonds pursuant to this chapter, including advertisements, printing, and credit enhancement and related interest rate swaps, hedges, or similar items, whether incurred in connection with the issuance of or after the issuance of bonds;

(L) The cost of any election held pursuant to this chapter;

(M) The discount, if any, on the sale or exchange of bonds;

(N) Administrative expenses;

(O) Such other expenses as may be necessary or incidental to the acquisition, construction, demolition, redevelopment, or reconstruction of any project or to the financing of any project, or to the development of any lands within a district; and

(P) Payments, contributions, and dedications required as a condition to receive any government approval or permit necessary to accomplish any district purpose or the exercise of any district power.

(8) 'Deed restrictions' means those covenants, conditions, and restrictions contained in any applicable deeds, agreements, or declarations of covenants and restrictions that govern the use and operation of real property within the district and, for such covenants,

conditions, and restrictions, there is no homeowners' association or property owners' association having respective enforcement powers.

(9) 'District' means an infrastructure development district.

(10) 'District roads' means highways, streets, roads, alleys, sidewalks, bridges, paths, trails, and thoroughfares of all kinds and descriptions within a district, including any landscaping and storm drains associated therewith.

(11) 'Government member' means a member of the board named by a local government.

(12) 'Infrastructure development district' means a geographic area of development created pursuant to this chapter and limited to the performance of those specialized functions authorized by this chapter; the governing body of which is a board created and authorized to function specifically as prescribed in this chapter for the financing of projects and the formation, powers, operation, duration, accountability, requirements for disclosure, and termination of which are as required by this chapter. An infrastructure development district shall not be considered a political subdivision.

(13) 'Initial costs' means costs related to district projects identified in the petition for creation of the district.

(14) 'Landowner' means any entity or person shown as a taxpayer for one or more parcels of real estate in a district as reflected on the most recent ad valorem tax records in the county or counties that have jurisdiction over the property included in the district as certified by the tax commissioner of the county or counties.

(15) 'Local governing authority' means any county or municipal corporation of the State of Georgia.

(16) 'Open space' means dedicated lands and waters, or interests therein, consistent with one or more of the following uses:

(A) Protection of areas that serve as natural habitat for native plant and animal species;

(B) Provision of recreation in the form of outdoor activities including, but not limited to, biking, boating, camping, fishing, golfing, hiking, hunting, jogging, running, or recreational fields;

(C) Scenic protection; or

(D) Water quality protection for rivers, streams, and lakes;

(17) 'Petitioner member' means a member of the board named by the petitioner.

(18) 'Petitioner' means an entity, person, or group of persons who intends to create a district.

(19) 'Project' means any development, improvement, property, utility, facility, works, enterprise, or service existing on January 1, 2009, or thereafter undertaken or established under this chapter. A project shall not include an 'electric utility' or a 'gas company' as defined in Code Section 46-1-1.

(20) 'Qualified electors' means landowners within the district who, at the time the district was created, were not shown as a landowner for one or more parcels of real estate within the district on the ad valorem tax records of the county or counties that have jurisdiction over the property included in the district.

(21) 'Revenues' means the proceeds of assessments, rates, fees, rentals, or other charges prescribed, fixed, established, and collected by the board for the projects furnished by the district.
(22) 'Service delivery provider' means a local government or local government authority that provides services to a designated area pursuant to Article 2 of Chapter 70 of this title.
(23) 'Sewer system' means any plant, system, facility, or property serving a district, and any additions, extensions, and improvements constructed or acquired as part of the system, useful or necessary or having the present capacity for future use in connection with the collection, treatment, purification, or disposal of sewage, including, without limitation, industrial wastes resulting from any process of industry, manufacture, trade, or business or from the development of any natural resource. Without limiting the generality of the foregoing, the term 'sewer system' includes treatment plants, pumping stations, lift stations, valves, force mains, intercepting sewers, laterals, pressure lines, mains, and all necessary appurtenances and equipment; all sewer mains, laterals, and other devices for the reception and collection of sewage from premises connected to the devices; and all real and personal property and any interest in all real and personal property, rights, easements, and franchises of any nature relating to any such system and necessary or convenient for the operation of the system.
(24) 'Short-term borrowing' means a debt obligation of the district in the form of loan, note, warrant, or other evidence with a maturity not to exceed one year.
(25) 'Water management and control facilities' means any lakes, ponds, canals, ditches, reservoirs, dams, levees, sluiceways, floodways, pumping stations, or any other works, structures, or facilities for the conservation, control, development, utilization, and disposal of water, and any purposes appurtenant, necessary, or incidental to the facility serving a district. The term 'water management and control facilities' includes all real and personal property and any interest in the property, rights, easements, and franchises of any nature relating to any such water management and control facilities necessary or convenient for the acquisition, construction, reconstruction, operation, or maintenance of the water management and control facilities.
(26) 'Water system' means a system for the provision of piped water for human consumption within a district. Such system shall have at least 15 service connections or regularly serve at least 25 individuals. Such term includes, but is not limited to, any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. The term 'water system' includes all real and personal property and any interest in the property, rights, easements, and franchises of any nature relating to any such water system necessary or convenient for the acquisition, construction, reconstruction, operation, or maintenance of the water system. Such water system shall be subject to the provisions of Part 5 of Article 3 of Chapter 5 of Title 12, the 'Georgia Safe Water Drinking Act of 1977.'

36-93-3.

(a) A local governing authority may exercise its powers granted by this chapter after holding a public hearing for the purpose of discussing the use of districts as a tool for financing services and infrastructure and approving a resolution or ordinance that authorizes the local government to create and regulate districts as provided under this chapter. Such local governing authority shall hold a minimum of two public hearings for discussion purposes; however, the vote to approve a resolution or ordinance authorizing the local governing authority to create and regulate districts shall be held no more than 90 days following the last public hearing held to discuss the use of districts as a financing tool.

(b) Prior to requesting the creation of a district, the petitioner shall submit the proposed development plan to the appropriate local government for consideration. Such petitioner shall complete all required federal, state, or regional reviews including, but not limited to, development of regional impact reviews pursuant to paragraph (3) of subsection (b) of Code Section 50-8-7.1 and Code Section 50-32-14 with respect to such proposed development plan. The department and regional development center of jurisdiction shall consider the comments of any contiguous regional development center in formulating its findings in the development of regional impact review.

(c)(1) A petitioner seeking to create a district to finance such development shall file a petition requesting creation of a district with the appropriate local government. The development of regional impact review, along with any other required federal, state, or regional review, shall be completed prior to the appropriate local government's taking final action on the approval of a district.

(2) A petitioner shall submit to the local governing authority an application fee to be established by the appropriate local government not to exceed $5,000.00 per 1,000 acres, not to exceed $15,000.00 regardless of acreage, to defray administrative costs associated with the petition, including, but not limited to, legal fees and any other professional fees incurred by the local governing authority.

(3) In the event that a development of regional impact review is required pursuant to state law, rule, or regulation and the findings of the development of regional impact review are that the development is in the best interest of the state but that certain modifications in the development plan should be made, the petitioner and the appropriate local government shall submit to all rules and regulations pertaining to the mediation of conflicts for developments of regional impact as set forth by the Department of Community Affairs prior to the appropriate local government's taking final action on the approval of the district.

(4) In the event the findings of the development of regional impact review are that the development is not in the best interest of the state, the petitioner and the appropriate local government shall submit to all rules and regulations pertaining to the mediation of conflicts for developments of regional impact as set forth by the Department of Community Affairs prior to the appropriate local government's taking final action on the approval of the district. Additionally, the appropriate local government may in its

discretion condition its approval of such a district upon the approval by a majority of voters residing in the geographic boundaries of such local government in an election through the adoption of an appropriate resolution. Upon receipt of such resolution by the election superintendent, such election shall be called by the election superintendent of the local governing authority and conducted on a date and in the manner authorized by Code Section 21-2-540. The question on the ballot shall be as prescribed in the resolution adopted by the governing authority of the local government.

(d) The petition shall:

(1) Be signed by all holders of title of the taxable land within the proposed district as determined by the most recent approved county ad valorem tax digest or documentation demonstrating that the petitioner has control, including, but not limited to, by deed, trust agreement, or contract, of the taxable land;

(2) Describe the boundaries of the proposed district by metes and bounds or by lot and block number if there is a recorded map or plat and survey of the area;

(3) Specifically identify the projects to be undertaken according to the petitioner's master plan for the district, the necessity for the projects, the cost of the projects, and the anticipated need for tax-exempt bonds as then reasonably estimated by the petitioner. These estimates shall be submitted in good faith but shall not be binding and may be subject to change;

(4) Include a name of the proposed district which shall be generally descriptive of the locale of the proposed district followed by the words 'Infrastructure Development District' or, if a district is located within one county, it may be designated '____ County Infrastructure Development District No. _____'; provided, however, that the proposed district shall not have the same name as any other district in the state or of any county or municipality in the state;

(5) Include a designation of four persons to be the initial petitioner members of the board who shall serve in that office until replaced by elected members as provided in this chapter;

(6) Based upon reasonably available data, identify water and sewer facilities located within the district, if any;

(7) Based upon available data, include the proposed timetable for construction of the district projects and the estimated cost of constructing the proposed projects. These estimates shall be submitted in good faith but shall not be binding and may be subject to change;

(8) Include a designation of the future general distribution, location, and extent of public and private uses of land proposed for the area within the district as shown on the appropriate local government's comprehensive land use plan, if one has been adopted pursuant to Article 1 of Chapter 70 of this title; and

(9) Include a preliminary master plan.

36-93-4.

(a) The petitioner shall submit a copy of the petition to the governing authority of any local government, the boundaries of which are contiguous with, or contain all or a portion of, the land within the external boundaries of the proposed district.

(b) A public hearing on the petition shall be conducted by the appropriate local government no sooner than 60 days nor later than 120 days following the submission of a petition unless reasonably delayed for reasons related to the appropriate local government's completing all necessary federal, state, or regional reviews including, but not limited to, development of regional impact reviews pursuant to paragraph (3) of subsection (b) of Code Section 50-8-7.1 and Code Section 50-32-14 or due to circumstances beyond the control of the appropriate local government. The hearing shall include oral and written comments on the petition pertinent to the proposed district, including the factors specified in subsection (c) of this Code section. The hearing shall begin after 6:00 P.M. but no later than 7:00 P.M. at an accessible location in the jurisdiction of each appropriate local government. The petitioner shall cause a notice of the hearing to be published in the legal organ of the county or municipality wherein the district's land lies at least once a week for the four successive weeks immediately prior to the hearing. Such notice shall not be placed in the area reserved for legal advertisements. The notice shall give the time and place for the hearing, a description of the area to be included in the district, and any other relevant information which the appropriate local government may require. All affected local governments and the general public shall be given an opportunity to appear at the hearing and present oral or written comments on the petition.

(c) The appropriate local government shall consider the entire record of the applicable hearing and applicable factors and shall make a determination to grant or deny the petition for the establishment of a district. Such applicable factors shall include, but are not limited to:

(1) Whether the statements contained within the petition have been found to be true and correct;

(2) Whether the area of land within the proposed district is of sufficient size and sufficiently contiguous to be developed as one functional interrelated community;

(3) Whether creation of the district is a reasonable alternative for providing infrastructure and facilities to the area that will be served by the district;

(4) Whether the infrastructure and facilities of the district will be compatible with the capacity and uses of existing local and regional services and facilities, provided that, as a condition for approval of creation, the district shall submit a proposed postdevelopment storm-water management system plan and shall plan for sewer service to be made available to all buildings within the district;

(5) Whether the proposed district projects are consistent or inconsistent with any applicable element or portion of the appropriate local government's comprehensive plan adopted pursuant to Article 1 of Chapter 70 of this title or an existing service delivery agreement pursuant to Article 2 of Chapter 70 of this title;

(6) Whether the creation of the district is compatible with the appropriate local government in general and will supplement rather than be a detriment to the general population; and

(7) Whether the district will result in an increase in taxes paid by existing taxpayers in the county or municipality residing outside the district.

(d) The appropriate local government which has jurisdiction over the land to be included in the district shall not adopt any resolution, ordinance, or contract which would expand any powers granted to the district by this chapter.

(e) The petitioner shall provide a copy of the petition to create the district, any resolution or ordinance establishing a district, and the district's disclosures pursuant to subsection (b) of Code Section 36-93-23 to the Department of Community Affairs.

(f) A resolution or ordinance establishing a district shall:

(1) Describe the external boundaries of the district;

(2) Name the persons designated to be the initial members of the board as described in Code Section 36-93-5;

(3) Name the district; and

(4) Include other information required or authorized by this chapter.

(g)(1) A district created pursuant to this chapter is not a general purpose local government and specifically shall not be included in the term 'local government' as that term is defined in paragraph (5.2) of Code Section 36-70-2; and the creation of a district shall not override any agreement entered into between local governing authorities pursuant to Article 2 of Chapter 70 of this title or any other provision of law.

(2) The powers granted to a district pursuant to paragraphs (11) and (12) of Code Section 36-93-8 may be exercised by the board upon execution of an agreement between the board and the appropriate local government. Such agreements shall include reasonable terms including, but not limited to, describing the services and facilities to be provided within the district and the source of funding for such services and facilities. If such agreements are amended the amendments must be agreed to by mutual consent of the board and the local government unit or units.

36-93-5.

(a) The powers granted to a district pursuant to this chapter shall be exercised by the board. Except as provided in this Code section, the board shall consist of at least five members and member shall hold office for a term of four years and until a successor is appointed or elected and qualified. All members of the board must be at least 18 years old, a resident of this state, and a citizen of the United States. The provisions of Code Section 45-10-3 shall apply to all members of the board who are elected pursuant to this Code section and their successors. As provided in this Code section, the board members' successors shall also be required to be residents of the district.

(b) Unless the membership of the board is expanded as provided in this Code section, the initial board named under the resolution or ordinance establishing the district pursuant to

Code Section 36-93-4 shall be composed of five members named by the petitioner and one member who shall be appointed by each appropriate local government that issues a resolution or ordinance creating the district at such local government's discretion. In the event a district is created by a resolution or ordinance by more than one local government, each appropriate local government shall appoint one member to the board and the petitioner may appoint one additional petitioner member per additional government member. An appropriate local government and such government's appointee shall have immunity from actions for money damages with respect to any act or omission by the district board and with respect to any act or omission by such government's appointee as a member of the district board or as an employee, appointee, or official of the appropriate local government. An initial board member shall serve until the board, in the case of petitioner members, or the appropriate local government, in the case of government members, replaces the member or the member is replaced by an election by the qualified electors pursuant to subsection (c) of this Code section.

(c)(1) Petitioner members of the board shall stand for election by qualified electors pursuant to the following schedule and such elected petitioner members of the board shall be qualified electors:

(A) The first petitioner member shall stand for election within six months of the sale to the general public of land representing 30 percent of the geographic area within the boundaries of the district;

(B) The second petitioner member shall stand for election within six months of the sale to the general public of land representing 50 percent of the geographic area within the boundaries of the district;

(C) The third petitioner member shall stand for election within six months of the sale to the general public of land representing 70 percent of the geographic area within the boundaries of the district; and

(D) All remaining petitioner members shall stand for election within six months of the sale to the general public of land representing 75 percent of the geographic area within the boundaries of the district or within six years after the effective date of the resolution or ordinance establishing the district, whichever is sooner.

(2) The board shall organize district elections which shall be held at a meeting of the qualified electors of the district. Notice of the meeting and the election of board members shall be published once a week for two consecutive weeks in the legal organ of the county or municipality wherein the district's land lies and the last day of such publication shall be not fewer than 14 days nor more than 28 days before the meeting; provided, however, that such notice shall not be published in the area reserved for legal advertisements. The chairperson of the board shall conduct the meeting. If the chairperson is a qualified elector or proxy holder for a qualified elector, he or she may nominate candidates and make and second motions.

(3) Only qualified electors shall vote in any district election. Each qualified elector shall be entitled to vote commensurate with his or her ownership interest in the development.

At a district election, each qualified elector shall be entitled to cast one vote per acre of land owned by him or her, located within the district, for each member to be elected; provided, however, that a qualified elector may not cast a vote representing any land currently used or identified for future use of district facilities, infrastructure, or other district specific purposes including common areas. No qualified elector may cast votes representing more than 15 percent of the available votes. A qualified elector may vote in person or by a properly executed written proxy. Each proxy must be signed by one of the landowners of the property for which the vote is cast and must contain the typed or printed name of the individual who signed the proxy; the street address, legal description of the property, or tax parcel identification number; and the number of authorized votes. If the proxy authorizes more than one vote, each property must be listed and the number of acres of each property must be included. The signature on a proxy need not be notarized. A fraction of an acre shall be treated as one acre, entitling the qualified elector to one vote with respect thereto. In the event that an acre or a fraction of an acre is jointly owned, only one such owner shall be entitled to vote as a qualified elector. Nominees for the board are elected by a majority of votes cast in accordance with this paragraph.

(4) On or before June 1 of each year, the board shall determine the amount of land sold within the district to the general public and the proportion of that land sold relative to the overall amount of land within the district boundary for purposes of determining whether any seats of the board shall be contested by election pursuant to this Code section. Such determination and nominations for available seats shall be made at a meeting of the board and shall become part of the official minutes of the district. Such calculation shall not consider land currently used or identified for future use of district facilities, infrastructure, or other district specific purposes.

(5) Elections of board members shall be nonpartisan. Board members shall assume their office immediately upon their election.

(d)(1) Members of the board shall hold office for the terms for which they were elected or appointed and until their successors are chosen and qualified. If, during the term of office, a vacancy occurs among the petitioner members, the remaining members of the board shall fill the vacancy by an appointment for the remainder of the unexpired term.

(2) Notwithstanding paragraph (1) of this subsection, a board may not appoint a person to fill a vacancy on the board if the person:

(A) Resigned from the board:

(i) In the two years preceding the vacancy date; or

(ii) On or after the vacancy date but before the vacancy is filled; or

(B) Was defeated in a board election held by the district in the two years preceding the vacancy date.

(e) A majority of the members of the board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the district shall be upon a vote of a majority of the members present unless general law or a rule of the district requires a greater number.

(f) As soon as practicable after each election or appointment, the board shall organize by electing one of its members as chairperson and by electing a secretary, who need not be a member of the board, and such other officers as the board may deem necessary.
(g) The board shall keep a permanent record book entitled 'Record of Proceedings of (name of district) Infrastructure Development District,' in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, and any and all corporate acts. The record book and any other documents shall be open to inspection and governed by the provisions of Article 4 of Chapter 18 of Title 50. The record book shall be kept at a district office.
(h) All meetings of the board shall be open to the public and governed by the provisions of Chapter 14 of Title 50. The board shall hold at least one annual meeting on the same date every year, such date to be published as part of the resolution or ordinance creating the district. The meeting shall begin no earlier than 6:00 P.M. nor later than 7:00 P.M. and shall address issues related to the district including, but not limited to, current projects, district finances, and potential future projects. In addition, the board shall make available to any person upon request a report of the names and contact information of the board members, their employers, and their relationships to other members of the board and to any officer or employee of the developer.

36-93-6.
(a) The board shall designate a resident of this state as treasurer of the district who shall have charge of the funds of the district. Such funds shall be disbursed only upon the order, or pursuant to the resolution, of the board. The board may give the treasurer additional powers and duties as the board may deem appropriate and may fix his or her compensation. The board may require the treasurer to give a bond in such amount, on such terms, and with such sureties as may be deemed satisfactory to the board to secure the performance by the treasurer of his or her powers and duties. The financial records of the board shall be audited by an independent certified public accountant at least once a year. The results of such audit shall be recorded in the district's record book and made available to the public pursuant to subsection (g) of Code Section 36-93-5. The district shall file its audits annually with the Department of Audits and Accounts.
(b) The board is authorized to select as a depository for its funds any commercial bank or trust company, mutual savings bank, savings and loan association, or building and loan association existing under the laws of this state or of the United States upon such terms and conditions as to the payment of interest by such depository upon the funds so deposited as the board may deem just and reasonable.
(c) The treasurer shall not be a current member of the board.

36-93-7.

(a) A district board shall set its fiscal year.

(b) At least 60 days prior to the adoption of the annual budget for the district, the treasurer shall prepare a proposed budget for the ensuing fiscal year to be submitted to the board for board approval. The proposed budget shall include at the direction of the board an estimate of all necessary expenditures of the district for the ensuing fiscal year and an estimate of income of the district from assessments provided in this chapter. The board shall consider the proposed budget item by item and may either approve the budget as proposed by the treasurer or modify the same in part or in whole. The board shall indicate its approval of the proposed budget by resolution that shall provide for a hearing on the proposed budget as approved. Such hearing shall begin no earlier than 6:00 P.M. nor later than 7:00 P.M. and shall be limited only to consideration of the proposed budget. Notice of the hearing on the proposed budget shall be published in the legal organ of the county in which the district is located once a week for two consecutive weeks immediately preceding the date of the hearing. The notice shall further contain a designation of the date, time, and place of the public hearing and shall not be placed in the section reserved for legal advertisements. The board shall make copies of the proposed budget available during business hours at the district office for no less than two weeks prior to the hearing. At the time and place designated in the notice, the board shall hear all comments on and objections to the budget as proposed and may make such changes as the board deems necessary. At the conclusion of the budget hearing, the board shall, by resolution, adopt the budget as finally approved by the board. The budget for the next fiscal year shall be adopted no more than three months and no less than one month before the end of the district's fiscal year.

(c) At least 60 days prior to adoption of the annual budget for the district, the board shall submit to the appropriate local government, for purposes of disclosure and information only, the proposed annual budget for the ensuing fiscal year and any proposed long-term financial plan or program of the district for future operations. The appropriate local government may review the proposed annual budget and any long-term financial plan or program and may submit written comments to the board for its assistance and information in adopting its annual budget and long-term financial plan or program. Upon approval of the final budget, the board shall submit a certified copy of such budget to the appropriate local government.

(d) The district shall provide for the full disclosure of information relating to the public and private financing and maintenance of improvements to real property undertaken by the district. Such information shall be made available to all existing residents and to all prospective residents of the district. The district shall furnish each developer of a residential development within the district with sufficient copies of that information to provide each prospective initial purchaser of property in that development with a copy, and any developer of a residential development within the district, when required by law to

provide a public offering statement, shall include a copy of such information relating to the public financing and maintenance of improvements in the public offering statement.
(e) The Department of Community Affairs shall keep a current list of districts and their disclosures pursuant to this chapter and shall make such studies, reports, and other documents available for inspection.

36-93-8.
The district shall have, and the board may exercise, the following general powers:
(1) To sue and be sued in the name of the district; to adopt and use a seal and authorize the use of a facsimile thereof; and to acquire, by purchase, devise, or otherwise, and to dispose of real and personal property or any estate therein; provided, however, that, in accordance with the provisions of Code Section 36-93-9, the district shall not acquire property through eminent domain;
(2) To make and execute contracts and other instruments necessary or convenient to the exercise of its powers. All public works contracts shall be made in accordance with the provisions of Chapter 91 of this title. All contracts let by the board for any goods, supplies, or materials to be purchased exceeding $100,000.00 shall require a notice of bids be advertised twice in the legal organ of the county allowing a reasonable amount of time for responsive bids to be submitted and shall be subject to this Code section. The bid of the lowest responsive and responsible bidder for contracts for purchase of any goods, supplies, or materials shall be accepted unless all bids are rejected because the bids are too high or the board determines it is in the best interests of the district to reject all bids. The board may require such bidders to furnish bond with a responsible surety to be approved by the board. Contracts for the operation, maintenance, and management of district projects shall contain the following provisions:
(A) With the exception of contracts with the federal government, the state, a state or local authority, a board of education, or a political subdivision of the state, any district contract shall terminate absolutely and without further obligation on the part of the district at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which it may be renewed as provided in this Code section; and
(B) The contract may provide for automatic renewal unless positive action is taken by the district to terminate such contract, and the nature of such action shall be determined by the district and specified in the contract;
(3) To borrow money and issue bonds, bond anticipation notes, certificates, warrants, notes, or other evidence of indebtedness for initial infrastructure outlay as defined in the approved master plan petition. The district may incur debt without regard to the requirements of Article IX, Section V of the Constitution or any other provision of law prohibiting or restricting the borrowing of money or the creation of debt by political subdivisions of this state. Debt of the district may be backed by the full faith and credit of the district but shall not be an obligation of this state, the local government or

governments that approved the district, or any local government or other unit of government of this state;

(4) To adopt resolutions and orders prescribing the powers, duties, functions, and ethical requirements of the officers of the district; the conduct of the business of the district; and the maintenance of records of the district. The board may also adopt resolutions with respect to any of the projects of the district and define the area to be included therein. The board may also adopt resolutions which may be necessary for the conduct of district business;

(5) To maintain an office at such place or places as it may designate within the district;

(6) To hold, control, and acquire by donation or purchase, or dispose of, any public easements, dedications to public use, platted reservations for public purposes, or any other easements, dedications, or reservations for those purposes authorized by this chapter and to make use of such easements, dedications, or reservations for any of the purposes authorized by this chapter;

(7) To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the district is authorized to undertake and facilities or property of any nature for the use of the district to carry out any of the purposes authorized by this chapter;

(8)(A) To raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary and reasonable for the conduct of district activities as enumerated in the initial master plan petition and upkeep of district facilities and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.

(B) The board is authorized to prescribe, fix, establish, and collect rates, fees, rentals, or other charges, and to revise the same from time to time, for the projects furnished by the district as approved in the initial master plan petition including, but not limited to, recreational facilities, water management and control facilities, and water and sewer systems; to recover the costs of making connection with any district facility or system; and to provide for reasonable penalties against any user or property for any such rates, fees, rentals, or other charges that are delinquent.

(C) A copy of the schedule or schedules of such rates, fees, rentals, or charges shall be kept on file in the district office. The rates, fees, rentals, or charges so fixed for any class of users or property served shall be extended to cover any additional users or properties thereafter served which shall fall in the same class, without the necessity of any notice or hearing. Such rates may only be revised by the board.

(D) Rates, fees, rentals, and charges shall be just and equitable and uniform for users of the same class and when appropriate may be based or computed either upon the amount of service furnished, upon the number of average number of persons residing or working in or otherwise occupying the premises served, upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors as may be determined by the board on an equitable basis.

(E) The rates, fees, rentals, or other charges prescribed shall be such as will produce revenues, together with any other assessments, revenues, or funds available or pledged for such purpose, at least sufficient to provide for the following:

(i) All expenses of, including reserves for, the operation and maintenance of projects;

(ii) Payment when due of all bonds and interest thereon and costs related thereto for the payment of which revenues are, or shall have been, pledged or encumbered, including reserves for such purpose; and

(iii) Any other funds which may be required under the resolution or resolutions authorizing the issuance of bonds pursuant to this chapter.

(F) The board shall have the power to enter into contracts for the use of the projects of the district and with respect to the services and facilities furnished or to be furnished by the district;

(9) To cooperate with, or contract with, governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this chapter;

(10) To impose upon lands in the district assessments as provided by this chapter;

(11) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems, facilities, and basic infrastructures for the following, provided that such systems, facilities, and basic infrastructures shall be built according to the then-current specifications applicable to or within the jurisdiction or the service area of the service delivery provider in which such systems, facilities, and basic infrastructures are to be located and the district shall be subject to Chapter 9 of Title 25 and other provisions of state or federal law that are generally applicable to government entities providing the same infrastructure, facility, or service as the district, and provided, further, that exercising such powers shall constitute an essential governmental function for a public purpose:

(A) Water management and control facilities for the lands within the district and to connect some or any of such facilities with roads and bridges;

(B) Water supply, sewerage, and waste-water management, reclamation, and reuse or any combination thereof, and to construct and operate connecting, intercepting, or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways; to connect such mains, conduits, and pipelines with existing infrastructure upon entering into an agreement to do so with the owner of such existing infrastructure; and to dispose of any effluent, residue, or other byproducts of such system or sewer system. Such sewerage or sewerage system shall have the same rights, duties, and obligations as publicly owned treatment works that discharge treated waste water;

(C) Bridges or culverts that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments; and to construct any and all of such works and improvements across, through, or over any public right of way, highway, grade, fill, or cut;

(D)(i) District roads, sidewalks, bicycle paths, and pedestrian facilities;

(ii) Street lights; and

(iii) Buses, trolleys, trams, transit shelters, ridesharing facilities and services, parking improvements, and related signage;

(E) Investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the district under the supervision or direction of a competent governmental authority, unless the expenditure of investigation and remediation costs benefit any person who is a landowner within the district and who caused or contributed to the contamination;

(F) Conservation areas, mitigation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property, including green spaces and common areas;

(G) Security including, but not limited to, guardhouses, fences and gates, electronic intrusion detection systems, and patrol cars, when authorized by proper governmental agencies, except that the district may not exercise any police power, but may contract with the appropriate local government for an increased level of such services within the district boundaries;

(H) Indoor and outdoor recreational, cultural, and educational uses;

(I) Natural gas distribution facilities to be connected with and used by an existing municipal natural gas system to provide natural gas to the district; and

(J) Any other project within or outside the boundaries of a district consistent with the local government's comprehensive plan;

(12) To finance, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, and maintain additional facilities for the following, provided that such systems, facilities, and basic infrastructures shall be built according to the then-current specifications applicable to or within the jurisdiction or the service area of the service delivery provider in which such systems, facilities, and basic infrastructures are to be located, and provided, further, that exercising such powers shall constitute an essential governmental function for a public purpose:

(A) Fire prevention and control including fire stations, water mains and plugs, fire trucks, and other vehicles and equipment when authorized by the service delivery provider and pursuant to a written agreement with such service delivery provider;

(B) School buildings and related structures which may be leased, sold, or donated for use in the public educational system when authorized by the local school board;

(C) Control and elimination of pests of public health importance; and

(D) Waste collection and disposal when authorized by the service delivery provider and pursuant to a written agreement with such service delivery provider;

(13) To adopt and enforce appropriate resolutions in connection with the provision of one or more services through its projects;

(14)(A) To apply certain limited deed restrictions pertaining to the use and operation of real property within the district. The district may apply all or certain portions of the deed restrictions that:

(i) Relate to limitations or prohibitions that apply only to external structures and are deemed by the district to be generally beneficial for the district's landowners and for which application by the district is appropriate, as determined by the district's board in concert with the initial master plan petition; provided, however, that such deed restrictions shall not have retroactive application; or

(ii) Are consistent with the requirements of a development order or regulatory agency permit.

(B) The board may vote to adopt deed restrictions only when all of the following conditions exist:

(i) The district's geographic area contains no homeowners' associations;

(ii) The majority of the board has been elected by electors pursuant to this chapter; and

(iii) The declarant or other party establishing such deed restrictions has provided the board with a written agreement that such deed restrictions may be adopted by the district. A memorandum of the agreement shall be recorded in the public records.

(C) Within 60 days after such deed restrictions take effect, the district shall cause to be recorded in the property records in the county in which the district is located the deed restrictions, stating generally what deed restrictions were adopted and where a copy of the deed restrictions may be obtained. Districts may impose fines for violations of such deed restrictions and enforce such deed restrictions and fines through injunctive relief;

(15) To demolish buildings or other facilities located in areas of a district that are within the limits of a municipality and to redevelop areas located in a district that is authorized within the limits of a municipality; and

(16) To exercise all of the powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this chapter, including any power granted by the laws of this state to public or private corporations which is not in conflict with this chapter or with the purposes of the district.

36-93-9.

A district formed under this chapter shall not have the power of eminent domain and nothing in this chapter shall be construed to give a district such power.

36-93-10.

A district may adopt and enforce reasonable rules and regulations to:

(1) Secure and maintain safe, sanitary, and adequate plumbing installations, connections, and appurtenances as subsidiary parts of its sanitary sewer system;

(2) Preserve the sanitary condition of all water controlled by the district;

(3) Prevent waste or the unauthorized use of water controlled by the district;

(4) Provide and regulate a safe and adequate freshwater distribution system; and
(5) Regulate activities on any land or any easement owned or controlled by the district; provided, however, the appropriate local government shall retain all home rule and police powers including, but not limited to, code enforcement, regulatory authority, zoning powers, and land use control powers under the laws of this state; and provided, further, with the exception of districts performing redevelopment activities inside municipalities, that the district shall dedicate a minimum of 20 percent of its area to permanent open space.

36-93-11.
(a) In addition to the other powers provided for in this chapter and not in limitation thereof, the district shall have the power to issue from time to time notes in anticipation of bonds and to renew from time to time any such notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The district may issue such bond anticipation notes only to provide funds which otherwise would be provided by the issuance of the bonds. Bond anticipation notes may be authorized, sold, executed, and delivered in the same manner as bonds. As with its bonds, the district may sell notes at public or private sale. Any resolution or resolutions authorizing notes of the district or any issue thereof may contain any provisions which the district is authorized to include in any resolution or resolutions authorizing bonds of the district or any issue thereof and which the district is authorized to include in any bonds. Bond anticipation notes shall not be issued in an amount exceeding the par value of the bonds in anticipation of which they are to be issued.
(b) The district may, at any time, obtain loans for other short-term borrowing in such amounts and on such terms and conditions as the board may approve for the purpose of paying any of the expenses of the district or any cost incurred or that may be incurred in connection with any of the projects of the district and related operation and maintenance costs of the projects of the district. Such loans shall bear interest as the board may determine and may be payable from and secured by a pledge of such funds, revenues, and assessments as the board may determine; provided, however, that the board shall disclose the interest rate or rates payable on such loans and shall notify each property owner of his or her share of such costs as will be repaid on such loan or loans.

36-93-12.
(a) Bonds, notes, or other obligations issued by the district shall be paid from revenues and other property pledged to pay such bonds, notes, or other obligations. In the event the district defaults on its obligations, landowners within the district shall only be responsible for such obligations that are associated with their property and not the obligations of the district as a whole or the obligations of any other landowner. Landowners of the district shall have the right to satisfy or make arrangements to satisfy the proportionate share of

obligations related to the district and any related reasonable interest as determined by the calculation provided in subsection (i) of Code Section 36-93-14 on their property.

(b) All bonds, notes, and other obligations of the district shall be authorized by resolution of its board, such resolution to include a finding that revenues from the project will be sufficient to repay the bonds, notes, or other obligations. The board may incur debt for initial costs upon creation of the district by the appropriate local government and adoption of a resolution by the board. In the event that a district seeks to finance the construction of additional projects using tax-exempt bonds, the board shall submit a new petition to the appropriate local government that specifically identifies the projects to be undertaken, the necessity for the projects, the costs of the projects, and the anticipated need for tax-exempt bonds as then reasonably estimated by the petitioner, provided that such estimates shall be submitted in good faith but shall not be binding and may be subject to change. Obligations from such debt for each landowner within the district shall be limited to the amount identified in the calculation provided in subsection (i) of Code Section 36-93-14.

(c) Bonds, notes, or other obligations shall bear such date or dates, shall mature at such time or times not more than 30 years from their respective dates, shall bear interest at such rate or rates which may be fixed or may fluctuate or otherwise change from time to time, may be subject to interest rate hedge arrangements, shall be subject to redemption on such terms, and shall contain such other terms, provisions, covenants, assignments, and conditions as the resolution authorizing the issuance of such bonds, notes, or other obligations may permit or provide. The resolution authorizing the issuance of the bonds may delegate to such officers charged with the responsibility of issuing such bonds the authority to set the final terms, conditions, and details thereof, including the interest rate or rates and maturity, within reasonable parameters established and set forth in such resolution.

(d) The board is authorized to provide by resolution for the issuance of bonds of the board for the purpose of funding or refunding any bonds issued under the provisions of this chapter and then outstanding, together with accrued interest thereon and premium, if any. The issuance of such funding or refunding bonds, the maturities and all other details thereof, the rights of the holders thereof, and the duties of the board in respect to the same shall be governed by the provisions of this chapter insofar as the same may be applicable.

(e) The local governing authority may require performance bonds related to infrastructure construction.

(f) There shall be no limitation upon the interest rates of any maximum interest rate or rates on any bonds, notes, or other obligations of the district.

(g) Bonds issued by the district may be in such form, either coupon or fully registered, or both coupon and fully registered, and may be subject to such exchangeability and transferability provisions as the bond resolution authorizing the issuance of such bonds or any indenture or trust agreement may provide.

(h) Bonds shall bear a certificate of validation. In the case where property within the district is within multiple jurisdictions, validation shall occur in the jurisdiction within

which the majority of the property lies. The signature of the clerk of the superior court may be made on the certificate of validation of such bonds by facsimile or by manual execution, stating the date on which such bonds were validated; and such entry shall be original evidence in any court of this state.

(i) In lieu of specifying the rate or rates of interest which such bonds are to bear and the principal amount and maturities of such bonds, the notice to the district attorney; the notice to the public of the time, place, and date of the validation hearing; and the petition and complaint for validation shall state that the bonds when issued will bear interest at a rate not exceeding a maximum per annum rate of interest which may be fixed or may fluctuate or otherwise change from time to time, and that the principal amount will not exceed an amount specified in and the final maturity date will not be later than a date specified in such notices, petition, and complaint or may state that, in the event the bonds are to bear different rates of interest for different maturity dates, none of such rates will exceed the maximum rate so specified which may be fixed or may fluctuate or otherwise change from time to time; provided, however, that nothing in this Code section shall be construed as prohibiting or restricting the right of the board to sell such bonds at a discount, even if in doing so the effective interest cost resulting therefrom would exceed the maximum per annum interest rate specified in such notices and in the petition and complaint.

(j) The terms 'cost' and 'project,' when used in the phrases 'cost of the project' and 'cost of any project' in bond resolutions of the board; in bonds, notes, or other obligations of the district; or in notices of proceedings to validate such bonds, notes, or other obligations of the district, shall have the same meanings as provided in paragraphs (7) and (17) of Code Section 36-93-2.

(k) Pursuant to this chapter, all bonds, notes, and other obligations issued under this chapter and interest paid and all fees, charges, and other revenues derived by the district from the projects provided by this chapter are exempt from all taxes of the state or of any political subdivision, agency, or instrumentality thereof.

(l) All bonds issued under this chapter shall be validated pursuant to the procedures set forth in this title.

36-93-13.

Any issue of bonds may be secured by a trust agreement by and between the district and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company inside or outside the state. The resolution authorizing the issuance of the bonds or trust agreement may provide for the pledge of the revenues to be received from any projects of the district and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as the board may approve including, without limitation, covenants setting forth the duties of the district in relation to: the acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and insurance of any projects; the fixing and revising of the rates, fees, and charges; and the custody, safeguarding, and application of all moneys and for the employment of consulting

engineers in connection with such acquisition, construction, reconstruction, improvement, maintenance, repair, or operation. It shall be lawful for any bank or trust company within or outside the state which may act as a depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the district. The resolution authorizing the issuance of the bonds or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. The rights and remedies of bondholders shall be subject to the limitation specified in subsection (a) of Code Section 36-93-12. The board may provide for the payment of proceeds of the sale of the bonds and the revenues of any project to such officer, board, or depository as it may designate for the custody thereof and may provide for the method of disbursement thereof with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as part of the cost of the project to which such trust agreement pertains.

36-93-14.

(a) The board shall have the power to impose and collect a district project assessment on all other taxable real property in the district to construct and maintain projects approved by the appropriate local government and to pay the costs thereof; to pay the principal of, and interest on, any bonds of the district; and to provide for any sinking or other funds established in connection with any such bonds. Such district project assessment shall be capped at the amount determined by the board pursuant to subsection (i) of this Code section. The district project assessment shall be in addition to all other assessments provided for by law.

(b) The board may impose and collect a maintenance and operation special assessment to maintain, operate, or preserve the facilities and projects of the district and to pay the costs thereof; to pay the principal of, and interest on, any obligations of the district; and to provide for any sinking or other funds established in connection with any such obligations. Maintenance and operation special assessments shall be a lien on the property against which imposed until paid and shall be enforceable in like manner as taxes in the appropriate local government. The amount of the maintenance and operation special assessments shall be determined and assessed uniformly by the board upon all otherwise taxable real property within the district and shall be apportioned among the benefited lands in proportion to the benefits received by each tract of land.

(c) Any maintenance and operation special assessment imposed pursuant to this Code section shall be capped and disclosed to purchasers by the board. Except for specially designated property as provided for in Code Section 36-93-24, the assessments imposed by the board upon the properties shall be equitably apportioned among the properties according to the need for infrastructure created by the degree of density of development within the district and not for the purpose of providing infrastructure that would primarily benefit the county or municipality as a whole. Any assessment so imposed shall be

collected by the appropriate local government in which the property is located using the methods and procedures as designated by the tax authority of the appropriate local government. Delinquent assessments shall bear the same interest and penalties as ad valorem taxes of the appropriate local government in which the property is located and may be enforced and collected in the same manner. The appropriate local government in which the property is located may retain a fee to reimburse the actual increased costs of preparing and mailing notices to collect such assessments for the board. The remaining proceeds shall be transmitted by the appropriate local government to the board and shall be expended by the board only for the purposes authorized in this chapter.

(d) The board shall impose the assessments provided for in this Code section between January 1 and August 1 of each calendar year and shall notify in writing the appropriate tax authority of the appropriate local government in which the property is located by a date to be determined by the appropriate local government and the appropriate local government shall include the assessment on its regular ad valorem tax bills. In the event assessments are imposed at an amount based on property valuation, the board shall use the assessed values of property contained in the tax digest approved by the county to determine the amount applicable to each property assessment. The district shall base the district project assessments owed by each parcel of land as calculated using the formula provided in subsection (i) of this Code section.

(e) If a parcel of real property is removed from the district or assessment becomes otherwise inapplicable to such parcel of real property, it shall continue to bear its assessment burden then extant upon such event for bonded indebtedness of the district then outstanding until any bonded indebtedness then outstanding is paid or refunded.

(f) Each property subject to fees or assessments imposed by the board for any public facility that is also subject to impact fees levied by the appropriate local government shall receive a credit equal to the present value of all fees and assessments toward any impact fee as may be levied by the appropriate local government against said property for system improvements which are in the same category as said public facility in accordance with Chapter 71 of this title, the 'Georgia Development Impact Fee Act.'

(g) All bonds, notes, and other obligations issued according to this chapter and interest paid and all fees, charges, and other revenues derived by the district from the projects provided by this chapter are exempt from all taxes of the state or of any political subdivision, agency, or instrumentality thereof.

(h) With the exception of maintenance and operation special assessments, district assessments may be made payable in no more than 30 yearly installments.

(i) Before selling any property to the general public, the board shall determine the projected initial costs to be repaid by landowners through assessments. These initial costs shall be apportioned among the parcels to be sold to the general public and the amount of such apportionment shall be disclosed as required by this chapter. The board shall calculate the amount of initial costs and any costs for additional projects, if applicable, for which each parcel is to be responsible which costs shall be apportioned to each parcel at

a pro rata share based on acreage and make that amount available to the public. Sellers of land within the district shall refer to this calculation for purposes of the disclosures required in this chapter.

(j) In the case of a county which is by law or constitutional amendment subject to a maximum allowable mill rate for taxes levied by such county, and only in the case of such a county, assessments imposed under this chapter by a district created by such county shall be considered assessments imposed by such county for purposes of the maximum allowable mill rate. No district created by such a county may impose any assessments under this chapter unless the county governing authority has certified in writing to the district that the district assessments will not result in a violation of the maximum allowable mill rate applicable to the county.

36-93-15.

All assessments, rates, fees, rentals, and charges of the district provided for in this chapter, together with all penalties for default in the payment of the same and all costs in collecting the same, including a reasonable attorney's fee fixed by the court and taxed as a cost in the action brought to enforce payment, shall, from January 1 for each year the property is liable to assessment and until paid, constitute a lien of equal dignity, notwithstanding the provisions of Code Section 48-2-56, with the liens for municipal taxes and other taxes of equal dignity with municipal taxes upon all the lands against which such assessments have been imposed. A sale of any of the real property within the district for state, county, or other taxes shall not operate to relieve or release the property so sold from the lien for subsequent district assessments or installments of district assessments, which lien may be enforced against such property as though no such sale thereof had been made. Nothing in this chapter shall affect the rights of lien holders for municipal taxes.

36-93-16.

(a) The district has the right to:

(1) Pay any delinquent state, county, district, municipal, or other tax or assessment upon lands located wholly or partially within the boundaries of the district; and

(2) Redeem or purchase any tax sales certificates issued or sold on account of any state, county, district, municipal, or other taxes or assessments upon lands located wholly or partially within the boundaries of the district.

(b) Delinquent taxes paid, or tax sales certificates redeemed or purchased, by the district, together with all penalties for the default in payment of the same and all costs in collecting the same and a reasonable attorney's fee, shall constitute a lien in favor of the district of equal dignity, notwithstanding the provisions of Code Section 48-2-56, with the liens of municipal taxes and other taxes of equal dignity with municipal taxes upon all the real property against which the taxes were levied.

(c) In any sale of land, the district may certify to the tax commissioner, tax collector, or other public official holding such sale the amount of assessments due to the district upon

the lands sought to be sold; and the district shall share in the disbursement of the sales proceeds in accordance with the provisions of this chapter and other laws of the state.

36-93-17.
To the full extent permitted by law, the district may require all lands, buildings, premises, persons, firms, and corporations within the district to use the water management and control facilities and water and sewerage facilities of the district or any other facility or service of the district when the district relies on the collection of any rates, fees, or charges to provide said facility or service or to pay principal and interest on debt obligations secured by a pledge of revenues generated by the collection of such rates, fees, and charges.

36-93-18.
In the event that any assessments, rates, fees, rentals, charges, or delinquent penalties are not paid when due and are in default for 60 days or more, the unpaid balance thereof and all interest accrued thereon, together with reasonable attorney's fees and costs, may be recovered by the district in a civil action.

36-93-19.
In the event the fees, rentals, or other charges for water and sewer services, or either of them, are not paid when due, the board shall have the power, under such reasonable rules and regulations as the board may adopt, to discontinue and shut off both water and sewer services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and discontinuance and the restoration of such water and sewer services or both, are fully paid; and, for such purposes, the board may enter on any lands, waters, or premises of any person, firm, corporation, or body, public or private, within the district limits. Delinquent fees, rentals, or other charges, together with interest, penalties, and charges for the shutting off and discontinuance and the restoration of services and facilities and reasonable attorney's fees and other expenses, may be recovered by the district, which may also enforce payment of delinquent fees, rentals, or other charges by any other lawful method of enforcement.

36-93-20.
The board or any aggrieved person may have recourse to such remedies in law and at equity as may be necessary to ensure compliance with the provisions of this chapter, including injunctive relief to enjoin or restrain any person from violating the provisions of this chapter or any bylaws, resolutions, regulations, rules, codes, or orders adopted under this chapter. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, land, or water is used, in violation of this chapter or of any code, order, resolution, or other regulation made by the board under authority conferred by this chapter or under law, the board, any landowner, any appropriate local government, or any citizen residing in the district may

institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct, or prevent such violation; to prevent the occupancy of such building, structure, land, or water; and to prevent any illegal act, conduct, business, or use in or about such premises, land, or water.

36-93-21.

Property, real or personal, that belongs to or is owned by the district, or in which the district has an ownership interest and is funded by a tax-exempt bond issued by the district, shall be exempt from levy and sale by virtue of an execution; and no execution or other judicial process shall issue against such property, nor shall any judgment against the district be a charge or lien on its property or revenues; however, nothing contained herein shall apply to or limit the rights of bondholders to pursue any remedy for the enforcement of any lien or pledge given by the district in connection with any of the bonds or obligations of the district. In the event that taxes on such property become delinquent or government liens are placed on such property, the federal government, the state government, or any political subdivision of the state with an interest in such taxes or liens may pursue a civil action against the district to recover such moneys. Any such government shall be entitled to recover costs and attorney's fees accrued in the pursuit of such action.

36-93-22.

(a) The board may petition to contract or expand the boundaries of a district in the following manner:

(1) A petition to contract or expand the boundaries of a district shall comply with the same requirements and processes as a petition to create a new district pursuant to Code Section 36-93-3. In addition, if the petitioner seeks to expand the district, the petition shall describe the proposed timetable for construction of any district projects in the area, the estimated cost of constructing the proposed projects, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land use plan element of the local government comprehensive plan currently in force. If the petitioner seeks to contract the district, the petition shall describe what projects are currently provided by the district to the area being removed, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land use element of the adopted local government comprehensive plan; and

(2) A public hearing shall be held in the same manner and with the same public notice as required for creation of a new district pursuant to this chapter. The hearing shall include oral and written comments on the petition pertinent to the proposed district, including the factors specified in subsection (c) of this Code section. The hearing shall begin after 6:00 P.M. but no later than 7:00 P.M. at an accessible location in the jurisdiction of each appropriate local government. The petitioner shall cause a notice of

the hearing to be published in the legal organ of the county or municipality wherein the district's land lies at least once a week for the four successive weeks immediately prior to the hearing. Such notice shall not be placed in the area reserved for legal advertisements. The notice shall give the time and place for the hearing, a description of the area to be included in the district, and any other relevant information which the appropriate local government may require. All affected local governments and the general public shall be given an opportunity to appear at the hearing and present oral or written comments on the petition. The appropriate local government shall consider the record of the public hearing and the factors set forth in Code Section 36-93-3 in making its determination to grant or deny the petition.

(b) The district shall remain in existence unless:

(1) The district is merged with another district as provided by subsection (c) of this Code section;

(2) All of the specific community development systems, facilities, and services that it is authorized to perform have been transferred to the service delivery provider; or

(3) The district is dissolved as provided by subsection (e) of this Code section.

(c) The district may merge with other districts upon a two-thirds' vote of the qualified electors in each district and filing a petition with the appropriate local government, subject to approval by such government, which shall contain the same information required for a petition for creation pursuant to subsection (d) of Code Section 36-93-3, as applicable. The new district formed by a merger involving existing districts shall assume all indebtedness of, and receive title to, all property owned by the preexisting districts. Prior to filing a petition for merger, the districts desiring to merge shall enter into a merger agreement and shall provide for the proper allocation of the indebtedness so assumed and the manner in which the assumed debt shall be retired.

(d) Upon the request of the board of the district, a service delivery provider may adopt a resolution or ordinance providing for and entering into a contract for the transfer of a specific district service or infrastructure from a district to the service delivery provider.

(e)(1) Dissolution of the district may be allowed under the following circumstances:

(A) Upon the transfer of all of the public facilities and service obligations of the district to a service delivery provider, the district may be dissolved in accordance with a plan of dissolution adopted by the board and filed with the clerk of the superior court;

(B) If, within five years after the effective date of the resolution or ordinance establishing the district, a landowner has not received a building permit authorizing construction of a building or structure within the district, then the district shall be automatically dissolved;

(C) If a district has no outstanding financial obligations and no operating or maintenance responsibilities, upon the petition of the district, the district may be dissolved by a resolution or ordinance of the appropriate local government; or

(D) By order of a court of competent jurisdiction.

(2) Prior to any dissolution, debts and other obligations of the district must be fully paid or payment otherwise provided for.

36-93-23.

(a) The district shall provide for the full disclosure of information relating to the public and private financing and maintenance of improvements to real property including, but not limited to, the costs of all improvements, facilities, infrastructure, and development undertaken by the district. The required information shall be made available to all existing residents, and to all prospective residents, of the district. The district shall furnish each developer of a development within the district with sufficient copies of that information to provide a copy to each prospective purchaser of property in that development; and any developer of a development within the district, when required by law to provide a public offering statement, shall include a copy of information relating to the public financing and maintenance of improvements in the public offering statement.

(b) Subsequent to the establishment of a district under this chapter, each contract for the sale of a parcel of real property, each contract for the sale of a residential unit, and each lease agreement for the rental of a residential unit within the district shall include, immediately prior to the space reserved in the contract for the signature of the purchaser, the following disclosure statement in boldface and conspicuous type which is larger than the type in the remaining text of the contract: 'THE PROPERTY YOU ARE ABOUT TO PURCHASE OR LEASE IS WITHIN THE (Name of District) INFRASTRUCTURE DEVELOPMENT DISTRICT. THE (Name of District) INFRASTRUCTURE DEVELOPMENT DISTRICT MAY IMPOSE ASSESSMENTS ON THIS PROPERTY FOR THE COSTS OF ALL IMPROVEMENTS, FACILITIES, INFRASTRUCTURE, AND DEVELOPMENTS. CERTAIN OF THESE ASSESSMENTS PAY THE INITIAL COSTS OF THE DISTRICT AND THE COSTS OF ADDITIONAL PROJECTS. THESE ASSESSMENTS FOR INITIAL COSTS AND ADDITIONAL PROJECTS SHALL NOT EXCEED $_____ PER YEAR. ADDITIONAL ASSESSMENTS MAY PAY THE OPERATION AND MAINTENANCE OF DISTRICT PROJECTS, AND SUCH COSTS ARE CAPPED BY LAW. DISTRICT ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW. THIS DISCLOSURE AND THE CONTRACT FOR SALE IN WHICH IT APPEARS SHALL BE ENFORCEABLE IN ANY COURT OF COMPETENT JURISDICTION.'

(c) The limit on assessments for initial costs and additional projects shall be determined as provided for in subsection (i) of Code Section 36-93-14. Any person or entity who seeks to sell land within the district shall use the amount identified by the board pursuant to subsection (i) of Code Section 36-93-14 for purposes of making the required disclosures under this Code section.

(d) Within 30 days after the effective date of a resolution or ordinance establishing a district under this chapter, the district shall cause to be recorded in the property records in

the county in which it is located a 'Notice of Establishment of the _____ Infrastructure Development District.' The notice shall, at a minimum, include the legal description of the district and a copy of the disclosure statement specified in subsection (b) of this Code section.

36-93-24.

(a) A district that is composed of at least 1,500 acres may, within its petition for the creation of the district pursuant to Code Section 36-93-3, define areas or designate certain property of the district for special maintenance and operation assessments to pay for improvements, facilities, or services that primarily benefit that designated area or property and do not generally and directly benefit the district as a whole.

(b) The board shall state in its designation the physical and economic reasons, the particular diverse local needs, or the comparative potential benefits of the defined areas or designated property in the district that make it necessary or equitable to impose all or part of the assessment on a defined area or designated property of the district.

(c)(1) The board shall adopt a proposed plan that defines the particular area to be assessed by metes and bounds or designates the property to be served, affected, and assessed.

(2) The board shall adopt a proposed plan for improvements in the defined area or to serve the designated property.

(3) The board shall adopt a proposed plan of assessment to apply to the defined area or designated property that may or may not be in addition to other assessments imposed by the district on the same area or property.

(d) After adoption of the plans as provided for in this Code section, the district, under the limitations of this Code section, may apply separately, differently, equitably, and specifically its assessment powers and lien authority to the defined area or designated property to provide funds to construct, administer, maintain, and operate improvements and facilities that primarily benefit the defined area or designated property.

(e) After adoption of the plans as provided for in this Code section, the district may issue its bonds to provide the specific projects included in the plans adopted for the defined area or to serve the designated property, and shall provide the improvements and facilities.

(f) The district may issue bonds that pledge only the faith and credit based on the property values in the defined area and may not pledge the full faith and credit of the district.

(g) In lieu of the general notice required under Code Section 36-93-23, a person who sells or conveys real property located within the defined area or designated property of the district shall provide the following prescribed notice, which shall be disclosed in the same manner as notice required under Code Section 36-93-23: 'THE PROPERTY YOU ARE ABOUT TO PURCHASE OR LEASE IS WITHIN THE (Name of District) INFRASTRUCTURE DEVELOPMENT DISTRICT. THE (Name of District) INFRASTRUCTURE DEVELOPMENT DISTRICT MAY IMPOSE ASSESSMENTS ON THIS PROPERTY FOR THE COSTS OF ALL IMPROVEMENTS, FACILITIES, AND

INFRASTRUCTURE. CERTAIN OF THESE ASSESSMENTS PAY THE INITIAL COSTS OF THE DISTRICT AND THE COSTS OF ADDITIONAL PROJECTS. THESE ASSESSMENTS FOR INITIAL COSTS AND ADDITIONAL PROJECTS SHALL NOT EXCEED $_____ PER YEAR. ADDITIONAL ASSESSMENTS PAY THE OPERATION AND MAINTENANCE COSTS OF DISTRICT PROJECTS, AND SUCH COSTS ARE CAPPED BY LAW. DISTRICT ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW. THIS DISCLOSURE AND THE CONTRACT FOR SALE IN WHICH IT APPEARS SHALL BE ENFORCEABLE IN ANY COURT OF COMPETENT JURISDICTION.'

'FURTHERMORE, THE PROPERTY YOU ARE ABOUT TO PURCHASE OR LEASE IS WITHIN A DESIGNATED AREA OF THE (Name of District) INFRASTRUCTURE DEVELOPMENT DISTRICT AND YOUR LAND WILL BE SUBJECT TO HIGHER ASSESSMENTS THAN OTHER LAND WITHIN THE COUNTY. THE RATE YOU ARE ASSESSED WILL BE HIGHER BY $_____ ON EACH $1,000.00 OF ASSESSED VALUATION THAN LAND NOT WITHIN THE DESIGNATED AREA.'

(h) The limit on assessments for initial costs and costs for additional projects shall be determined as provided for in subsection (i) of Code Section 36-93-14. Any person or entity who seeks to sell land within the district shall use the amount identified by the board pursuant to subsection (i) of Code Section 36-93-14 for purposes of making the required disclosures under this Code section.

36-93-25.

(a) A service delivery provider that is the designated provider of a service for the area in which a district is to be located pursuant to a service delivery strategy under Article 2 of Chapter 70 of this title shall receive a copy of the petition to create a district that is filed with the appropriate local government within five days of submission by the petitioner to the appropriate local government. The petitioner shall address and provide such copy to the mayor, sole commissioner, county commission chair, or director of the service delivery provider, as applicable, by statutory overnight delivery. The service delivery provider shall have the right of first refusal to provide the service to the district. Such right of first refusal shall be exercised within 30 days of receipt of the petition unless such time is extended by agreement between the appropriate local government, the service delivery provider, and the petitioner, and such decision shall be communicated to the appropriate local government no fewer than ten days before its public hearing on the petition. If the service delivery provider exercises its right to serve the district, it shall enter into a contract with the district, such contract to include the requirement that the service delivery provider provide its service within the district in conformity with a mutually agreed upon timetable of service. A service delivery provider's requirement that the infrastructure meet the existing standards used within the service area shall not constitute a refusal to provide service to the district.

Likewise, a service delivery provider's requirement that the district construct, or pay the costs of construction of, any infrastructure inside or outside of the district necessary to provide service to the district shall not constitute a refusal to provide such service. Such construction or costs of construction may include any infrastructure required to connect district infrastructure to the service delivery provider's existing infrastructure and the costs of any modification, improvement, or construction of infrastructure necessary to provide service to the district. The district shall only be required to construct or pay for construction of infrastructure project costs that are proportionately associated with the infrastructure necessary to serve the anticipated usage within the district. Finally, a service delivery provider's delay in providing service due to a lack of permit capacity or due to documented intended use of existing permit capacity shall not constitute a refusal to provide service to the district.

(b) Water or sewer fees charged to customers located outside the geographic boundaries of a service delivery provider and within the boundaries of a district shall not be arbitrarily higher than the fees charged to customers receiving such service which are located within the geographic boundaries of the service delivery provider.

(c) If a district board disputes the water and sewer rate differentials imposed within the district by the designated service provider, the district board may hold a public hearing for the purpose of reviewing the rate differential. Following the preparation of a rate study by a qualified independent engineer, the district board may challenge the rate differentials on behalf of its residents in a court of competent jurisdiction. Prior to such challenge, the dispute shall be submitted to some form of alternative dispute resolution.

36-93-26.

(a) The Department of Community Affairs shall study and review all districts created pursuant to this chapter and shall report its findings to the General Assembly, the Senate Committee on Economic Development, and the House Committee on Economic Development and Tourism by January 31 of each year.

(b) This Code section shall stand repealed on January 31, 2013."

SECTION 2.

Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, is amended by revising subsection (a) of Code Section 12-5-30, relating to permits for construction, modification, or operation of facilities which discharge pollutants into waters, as follows:

"(a) Any person who owns or operates a facility of any type or who desires to erect, modify, alter, or commence operation of a facility of any type which results or will result in the discharge of pollutants from a point source into the waters of the state shall obtain from the director a permit to make such discharge. Any person desiring to erect, modify, alter, or commence operation of a facility which will result in such discharge but which is not discharging such pollutants as of July 1, 1974, must obtain such permit prior to the

discharge of same. Any person who is operating a facility which results in such discharge as of July 1, 1974, may continue to make such discharge pending final action by the director on the application for such discharge permit, provided that such application has been filed with the director by September 29, 1974; and provided, further, that such discharge does not present an immediate health hazard to the public. The director, under the conditions he or she prescribes, may require the submission of such plans, specifications, and other information as he or she deems relevant in connection with the issuance of such permits. The director may, after public notice and opportunity for public hearing, issue a permit which authorizes the person to make such discharge, upon condition that such discharge meets or will meet, pursuant to any schedule of compliance included in such permit, all water quality standards, effluent limitations, and all other requirements established pursuant to this article. The director shall give preference to existing permits or modification of existing permits in conformity with existing service delivery strategy agreements required in Chapter 70 of Title 36."

SECTION 3.

Said chapter is further amended by revising subsection (f) of Code Section 12-5-31, relating to permits for withdrawal, diversion, or impoundment of surface waters generally and for farm uses, as follows:

"(f) In the event two or more competing applicants or users qualify equally under subsection (e) of this Code section, the director is authorized to grant permits to applicants or modify the existing permits of users for use of specified quantities of surface waters on a prorated or other reasonable basis in those situations where such action is feasible; provided, however, the director shall give preference to an existing use over an initial application, including preference to existing permits or modification of existing permits in conformity with existing service delivery strategy agreements required in Chapter 70 of Title 36."

SECTION 4.

Said chapter is further amended by revising subsection (b) of Code Section 12-5-96, relating to permits to withdraw, obtain, or use ground water, as follows:

"(b) When sufficient evidence is provided by the applicant that the water withdrawn or used from the ground is not consumptively used, a permit therefor shall be issued by the division without a hearing and without the conditions provided in subsection (c) of this Code section. Applications for such permits shall set forth such facts as the division shall deem necessary to enable it to establish and maintain adequate records of all water uses. The director shall give preference to existing permits or modification of existing permits in conformity with existing service delivery strategy agreements required in Chapter 70 of Title 36."

SECTION 5.

This Act shall become effective on January 1, 2009; provided, however, that this Act shall only become effective on January 1, 2009, upon the ratification of a resolution at the November, 2008, state-wide general election that amends the Constitution so as to authorize the General Assembly to provide by general law for the creation and comprehensive regulation of infrastructure development districts. If such resolution is not so ratified, this Act shall not become effective and shall stand repealed in its entirety on January 1, 2009.

SECTION 6.

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

Approved May 30, 2007.

JOINT STUDY COMMITTEE ON CONTINUING EDUCATION AND COLLEGIATE SPORTS PROGRAMS FOR STUDENTS WITH DISABILITIES.

No. 374 (House Resolution No. 322).

A RESOLUTION

Creating the Joint Study Committee on Continuing Education and Collegiate Sports Programs for Students with Disabilities; and for other purposes.

WHEREAS, the Georgia Department of Education's 2005/6 Report Card reported that 12 percent or approximately 10,300 of our state's 86,065 students enrolled in grade 12 have a disability such as a physical disability; and

WHEREAS, Georgia's disabled population continues to rise each year due to war-injured veterans returning from Iraq and elsewhere and other health risk factors; and

WHEREAS, the Georgia Department of Labor, the Georgia Department of Education, and the Board of Regents of the University System of Georgia should work together to provide continuing education and team sport collegiate activities for persons with disabilities; and

WHEREAS, continuing education, therapeutic, and organized sports programs for individuals with special needs provide our youth with an opportunity to represent their state and country in sporting events, serve as role models, and obtain postsecondary education; and

WHEREAS, Georgia currently has well organized school and community based programs, like BlazeSports Georgia and the American Association of Adapted Sports Programs, that provide sports and physical activity opportunities for Georgians with disabilities; and

WHEREAS, studies show that the physical, mental, and social benefits from participation by individuals with disabilities in sports and physical activity programs are wide accepted; and

WHEREAS, it has become necessary for the State of Georgia to explore policies to identify and create opportunities for disabled individuals in Georgia to further assist in their development and societal integration.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that there is created the Joint Study Committee on Continuing Education and Collegiate Sports Programs for Students with Disabilities to be composed of five members of the House of Representatives to be appointed by the Speaker of the House of Representatives and five members of the Senate to be appointed by the President of the Senate. The Speaker of the House of Representatives and the President of the Senate shall each designate a member of the committee who shall serve as cochairpersons of the committee. The committee shall meet at the call of the cochairpersons.

BE IT FURTHER RESOLVED that the committee shall undertake a study of what alternatives are open to the General Assembly to identify and create opportunities for student athletes with disabilities at the collegiate level and explore the development of pilot programs, recruitment of athletes, and nonprofit and private sector support for different collegiate programs. The committee shall also explore current high school, community, and collegiate sports programs and facilities.

BE IT FURTHER RESOLVED that the committee shall meet four times at locations throughout the State of Georgia to be determined by the cochairpersons. The members of the committee shall receive the allowances provided for in Code Section 28-1-8 of the Official Code of Georgia Annotated. The allowances authorized by this resolution shall not be received by any member of the committee for more than four days unless additional days are authorized. The funds necessary to carry out the provisions of this resolution shall come from the funds appropriated to the Senate and the House of Representatives. In the event that the committee makes a report of its findings and recommendations with suggestions for proposed legislation, if any, such report shall be made on or before the convening of the 2008 session of the General Assembly at which time the committee shall stand abolished.

Approved May 30, 2007.

RESOLUTIONS
OF THE
GENERAL ASSEMBLY
OF THE
STATE OF GEORGIA
PROPOSING AMENDMENTS
TO THE
CONSTITUTION
OF THE
STATE OF GEORGIA

INFRASTRUCTURE DEVELOPMENT DISTRICTS.

No. 373 (Senate Resolution No. 309).

A RESOLUTION

Proposing an amendment to the Constitution so as to authorize the General Assembly to provide by general law for the creation and comprehensive regulation of infrastructure development districts; to provide for the submission of this amendment for ratification or rejection; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article IX of the Constitution is amended by adding a new section to read as follows:

"SECTION VIII.
INFRASTRUCTURE DEVELOPMENT DISTRICTS

Paragraph I. ***Creation.*** The General Assembly may by general law provide for the creation of and comprehensive regulation of infrastructure development districts; provided, however, that an infrastructure development district may only be created when approved by a county governing authority when the entire district is proposed to be in the unincorporated area of a county, a municipal governing authority when the entire district is proposed to be wholly within the municipality, or both a county governing authority and a municipal governing authority when the district is proposed to be partially in the unincorporated area of a county and partially in a municipality.

Paragraph II. ***Purposes.*** The purpose of an infrastructure development district shall be the creation, provision, and expansion of such infrastructure services and facilities as may be provided for by general law.

Paragraph III. ***Administration.*** (a) Any general law providing for the creation of infrastructure development districts shall provide for the establishment of an administrative or governing body for the infrastructure development district and the appointment or election, terms, and qualifications of the members of such body.

(b) The administrative or governing body of each infrastructure development district may be authorized to impose and collect such fees and assessments within the district, or portion or portions of such district, under such conditions as shall be specified by general law.

Paragraph IV. ***Debt.*** The administrative or governing body of an infrastructure development district may incur debt, as authorized by general law, without regard to any of the provisions of Section V of this article, which debt may be backed by the full faith

and credit of the infrastructure development district but shall not be an obligation of the State of Georgia or any unit of government of the State of Georgia.

Paragraph V. ***Cooperation with local governments.*** The provisions of this section shall in no way limit the authority of any county or municipality to provide services or facilities within any infrastructure development district; and any county or municipality shall retain full and complete authority and control over any of its facilities located within an infrastructure development district. Said control shall include but not be limited to the modification of, access to, and degree and type of services provided through or by facilities of the municipality or county. Nothing contained in this section shall be construed to limit or preempt the application of any governmental laws, ordinances, resolutions, or regulations to any infrastructure development district or the services or facilities provided therein. No administrative or governing body of an infrastructure development district shall have or exercise the power of eminent domain, nor shall the state or any local government delegate such power to or exercise such power through any administrative or governing body of an infrastructure development district.

Paragraph VI. ***Regulation by general law.*** The General Assembly by general law shall provide for the powers, duties, and authority of infrastructure development districts and may regulate, restrict, and limit the creation of infrastructure development districts and the exercise of the powers of administrative or governing bodies of infrastructure development districts in any appropriate manner, including, but not limited to, limiting the application of such general law by population."

SECTION 2.

The above proposed amendment to the Constitution shall be published and submitted as provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the above proposed amendment shall have written or printed thereon the following:

"( ) YES Shall the Constitution of Georgia be amended so as to authorize the General Assembly to provide by general law for the creation and comprehensive
( ) NO regulation of infrastructure development districts for the provision of infrastructure as authorized by local governments?"

All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes." All persons desiring to vote against ratifying the proposed amendment shall vote "No." If such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall become a part of the Constitution of this state.

Approved May 30, 2007.