Georgia Department of Revenue

Local Government Services Division

Motor Vehicle Division

2015 GATO
Tax Commissioners

May 2015

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Georgia Department of Revenue

GATO 2015
LGS Legislative Review

1

Georgia Department of Revenue

House Bill 48
Real Property and Motor Vehicle Ad Valorem

Additions/Amendments to *Disabled Veterans* ad valorem tax exemptions

-Homestead exemption *per OCGA 48-5-48*

-Exemption from tax on motor vehicles *per OCGA 48-5-478*

2

Georgia Department of Revenue

OCGA 48-5-48 disabled veteran homestead exemption

can be *less* than 100% service connected disabled per VA adjudication but compensated as 100% disability due to unemployability *plus entitled to statutory award for…*

- loss or permanent loss of use one or both feet
- loss or permanent loss of use one or both hands
- loss of sight in one or both eyes
- permanent impairment of in vision both eyes
  - central acuity 20/200 or less in better eye
  - central acuity 20/200 or more if field defect in which peripheral field has contracted to extent that widest diameter of visual field subtends no greater 20 degrees in better eye

Georgia Department of Revenue

OCGA 48-5-478 disabled veteran ad valorem tax on motor vehicle

can be *less* than 100% service connected disabled per VA adjudication but compensated as 100% disability due to unemployability *plus entitled to statutory award for…*

- loss or permanent loss of use one or both feet
- loss or permanent loss of use one or both hands
- loss of sight in one or both eyes
- permanent impairment of in vision both eyes
  - central acuity 20/200 or less in better eye
  - central acuity 20/200 or more if field defect in which peripheral field has contracted to extent that widest diameter of visual field subtends no greater 20 degrees in better eye

Georgia Department of Revenue

OCGA 48-5-478 disabled veteran ad valorem tax on motor vehicle

- once eligibility established for 100% total disability per VA adjudication entitled to exemption every year thereafter

- once eligibility established but less than 100% disability must give annual proof of eligibility through letter from VA

- upon death of veteran then unmarried surviving spouse or minor child may receive the exemption

Georgia Department of Revenue

House Bill 94
Motor Vehicle Ad Valorem

Taxpayer remains liable for the ad valorem tax.

But HB94 excuses Georgia residents, who unregister (cancel) their vehicle registration, from paying the 10% penalty for failure to pay motor vehicle ad valorem taxes, while the vehicle was unregistered

6

Georgia Department of Revenue

House Bill 174
Economic Development

This legislation amends the Urban Redevelopment Law to change terminology used from "slum" to "pockets of blight."

Will make it easier for local governments and development authorities to draw on federal grants for redevelopment in blighted areas

7

Georgia Department of Revenue

House Bill 192
Government Purchasing Cards

After January 1, 2016 –

Governing authority must approve by public vote and adopt/promulgate **policies** for use by elected officials

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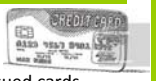
Georgia Department of Revenue



Policies shall include…

- Designation of officials authorized to be issued cards
- Authorized officials sign & accept agreement with county that cards will be used in accordance with such policy
- Transaction limits
- Description of authorized purchases authorized
- Description of unauthorized purchases
- Designation of purchasing card administrator
- Procedures for auditing
- Procedures for addressing violations

9

Georgia Department of Revenue

Felony penalties for use of government purchasing cards in an unauthorized manner or purpose

10

Georgia Department of Revenue

House Bill 199
Timber Harvesting

Currently timber harvesters must provide notice of their operations prior to cutting timber.

HB199 requires notice prior to entering the property if possible, but no later than 24 hours after entering the property and cessation notice within 24 hours after the job is completed.

$5,000 bond shall be required of a harvester in each county, regardless of the number of tracts being harvested

Counties will need to amend harvesting ordinances.

11

Georgia Department of Revenue

House Bill 202
Ad Valorem Comprehensive Revisions

- Publication of annual millage rate
- Digest submission
- Appraisal staff
- Appeals
- Ratio Study
- Billing

12

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

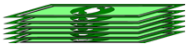
Section 4 **OCGA 48-2-44*

- 10% penalty if tax not paid within 90 days of due date…
  - 10% of unpaid tax when penalty is assessed

Example - $2,000 tax bill due 12/20/2016
$1,500 paid 01/31/2017
$500 still due on 03/20/2017

Penalty Based on unpaid tax on date penalty is assessed

Penalty is $50 (10% of $500)



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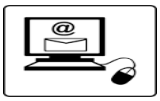
Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 5 **OCGA 48-3-3* electronic tax delinquency notices per discretion of tax commissioner, in lieu of or in addition to mailed notices

Section 8 **OCGA 48-5-148* tax bills sent electronically per discretion of tax commissioner, in lieu of or in addition to mailed bills



**Both require taxpayer consent via form*

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Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 6 **OCGA 48-3-27*

-Misdemeanor to obstruct or hinder any sheriff, ex officio sheriff, tax commissioner or municipal levy officer in the levy of state, county or municipal tax execution

15

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 7 *OCGA 48-5-32*

"Current and Five Year History Advertisement"

- Time period to advertise "current and 5 year history" prior to date of meeting to adopt mill rate from two weeks to **one week**

- Required to post advertisement on county website

NOTICE

CURRENT 2014 TAX DIGEST AND 5 YEAR HISTORY OF LEVY

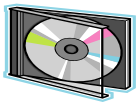
16

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 9 *OCGA 48-5-205*

-Deadline date to submit digest for approval to commissioner from August 1st to **September 1st**



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Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 10 **OCGA 48-5-265*

- Provides for joint county property appraisal staff per intergovernmental agreement
- Consultation with board of tax assessors first
- Intergovernmental agreement can provide for sharing of one or more designated members of appraisal staff

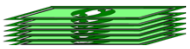
18

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 10 **OCGA 48-5-265* (Cont.)

- Any county (formerly just Class 1 counties) may contract with persons to render advice or assistance to board of tax assessors
  - advise in assessment and equalization of taxes, property valuations or defense of valuations
- Function of such persons ministerial final decision as to amount of assessments and the equalization made by board of tax assessors and set forth in the minutes of the county board of tax assessors
- No contract can provide for payments of fees on a percentage (ie. contingent) basis



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Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 11 **OCGA 48-5-274*

-State auditor shall adjust sales prices upward or downward for effect of price changes after January 1

- sales prices also reduced by…
  - portion attributable to personal property
  - real property exempt from taxation
  - standing timber included in sales transaction

20

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 12 **OCGA 48-5-299*

- 10% penalty for unreturned personal property added to assessment and not collected separately by tax commissioner

21

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 12 **OCGA 48-5-299* (Cont.)

-Appeal resolution value freeze for next two years does not apply if…

-taxpayer or taxpayer representative does not attend appeal hearings or provide BOE, hearing officer or arbitrator with written evidence supporting taxpayer's opinion of value

-taxpayer files return at different valuation during next two years

-If taxpayer files appeal during next two years BOE, hearing officer or arbitrator may increase or decrease value based on evidence presented

-Board of tax assessors may increase or decrease value of real property if after onsite inspection substantial additions, deletions or improvements or errors in the board of tax assessor records or occurrence of material factors that materially affect FMV

22

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 13 **OCGA 48-5-302*

-Date for assessors to complete revision & assessment of returns from July 1 to **July 15**

**OCGA 48-5-302*

23

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 14 **OCGA 48-5-306*

-**Annual assessment notice** to indicate appeal to hearing officer available on non-homestead property in excess of $750,000 or one or more accounts of wireless property with aggregate FMV in excess of $750,000

24

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 14 *OCGA 48-5-306* (Cont.)

- At taxpayer request, board of assessors shall provide, among other things "…a description of the methodology used by the board of tax assessors in setting the property's fair market value…"

25

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 14 *OCGA 48-5-306* (Cont.)

- Superior courts have jurisdiction to entertain actions against the board of assessors to enforce compliance of this code section – OCGA 48-5-306

26

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- "Appeal Administrator" means clerk of the superior court
- A duty of appeal administrator is to receive complaints filed with respect to actions of county board of equalization for failure to perform duties
- After investigation, grand jury issues written report that can be grounds for removal of a member of the board of equalization by the grand jury

27

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- Grand jury authorized to conduct a hearing following its receipt of the report of the appeal administrator regarding the board of equalization for failure to perform duties

28

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- Members of the board of equalization may designate a chairperson and two vice chairpersons (formerly a duty of grand jury to designate)

29

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

If regional board of equalization member must own real property in **any** county in region were member is appointed to serve

30

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Person seeking to be appointed as member or alternate member of board of equalization must file with clerk of superior court a uniform application designed by the Council of Superior Court Clerks of Georgia

31

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 15 **OCGA 48-5-311*

Following the completion of each term of office a BOE member shall within first year of reappointment complete at 20 hours of instruction in appraisal and equalization processes and procedures as required by commissioner for newly appointed members prior to hearing appeal

32

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Within 5 days after being selected board of equalization appointees the clerk of the superior court must cause and execute in writing the oath of office

33

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Presiding judge of superior court or the appeal administrator shall charge each member or alternate member of BOE with laws and duties relating to office

34

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Operations of "appeal administrator" a distinct budget unit within the county budget separate from the operations of the clerk of the superior court

35

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Appeal administrator shall maintain records of all notices to the taxpayer and taxpayer's attorney – including certified receipts of returned or unclaimed mail for 12 months after deadline to file appeal to superior court

36

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Appeal to hearing officer on available to non-homestead property with fmv in excess of $750,000 (formerly $1,000,000) as shown on taxpayers annual notice of assessment and on

One or more accounts of wireless property with aggregate FMV in excess of $750,000 as shown on taxpayers annual notice of assessment

37

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Uniform appeal form, established by commissioner, shall require initial assertion of value by taxpayer

- such assertion of value subject to later amendment or revision by taxpayer by submission of written evidence to board of tax assessors

38

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

In support of appeal, taxpayer may submit an appraisal certified by a real property appraiser classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board performed not later than nine months prior to date of assessment

39

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- Within 45 days of receipt of appraisal
  - Tax assessors notifies taxpayer of acceptance of appraisal or
  - Notifies taxpayer of the reasons for rejection of appraisal

40

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- Taxpayer can submit in support appeal most current report of sales ratio study
- Tax assessors shall consider such sales ratio study upon request of the taxpayer

41

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- If more than one property under appeal taxpayer can consolidate all such appeals into one hearing and announce separate decisions as to each parcel or item of property
- Taxpayer makes appeal consolidation request to board of equalization, arbitrator or hearing officer

42

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- Appeal of findings of consolidated hearing to superior court constitutes one civil action and unless taxpayer indicates otherwise…
- Appeal applies to all consolidated parcels or items of property

43

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- Within 10 days of expiration of 30 day appeal period to appeal to superior court…

  …board of tax assessors shall forward final determination of value to the tax commissioner

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44

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- Taxpayer has one time option of rescheduling appeal hearing to a day and time acceptable to the taxpayer and acceptable to the county board of tax assessors

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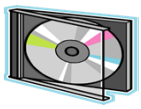
Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- Commissioner shall publish and update annually a manual for use by boards of equalization, arbitrators and hearing officers



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Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- If no changes are made in response to taxpayer appeal of assessment notice written notice shall be sent to the taxpayer and to any authorized agent or representative of the taxpayer who the taxpayer has requested that such notice be sent…"

47

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- Commissioner shall develop and make available to county boards of tax assessors suitable form used to notify taxpayer or taxpayer representative of changes made in response to appeal of assessment notice (aka 30 day letter)
- Notice sent to address taxpayer provided to board of tax assessors and to taxpayer representative that taxpayer has requested to receive the notice (30 day letter)

48

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- **Upon receipt of appeal to BOE**

Board of assessors must notify taxpayer of any changes within **180 days or taxpayers asserted value per return or appeal is final value,** however…

If more than 3% of total parcels under appeal or under appeal ≥ gross digest of county **additional 180 days or taxpayers asserted value per return or appeal is final value**

If **no notification** prior to expiration of additional 180 days commissioner can grant additional time extension

49

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- Within 15 days of board of equalization receipt of appeal…

Notice shall be sent by first class mail to taxpayer and any taxpayer approved agent or representative

Notice shall be transmitted by email to board of assessors if BOA has adopted policy consenting to electronic service if not, then first class mail

Notice shall advise each party that each may request a list of witnesses, documents or other written evidence to be presented by other party

List shall be presented to requesting at least **7** days prior to hearing

Failure to provide list within time frame grounds for continuance or exclusion of witnesses, documents or written evidence

50

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

-Notice of board of equalization decision….

- shall be delivered by hand to each party, with written receipt

OR…

- sent by registere ernight delivery to each party and filing original copy of decision with BOA

51

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Appeals to hearing officer

- available on non-homestead property with fmv in excess of $750,000 (formerly $1,000,000) as shown on taxpayers annual notice of assessment and on and…
- one or more accounts of wireless property with aggregate FMV in excess of $750,000 as shown on taxpayers annual notice of assessment

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Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Appeals to hearing officer (Cont.)

- (B)(i) As used in this subparagraph, the term 'wireless property' means tangible personal property or equipment used directly for the provision of wireless services by a provider of wireless services which is attached to or is located underneath a wireless cell tower or at a network data center location but which is not permanently affixed to such tower or data center so as to constitute a fixture.

53

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Appeals to hearing officer (Cont.)

Qualifications- for *wireless property appeals* hearing officer must be designated appraiser by a nationally recognized appraiser organization for *wireless property appeals*

54

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Appeals to hearing officer (Cont.)

- Board of tax assessors reviews appeal no more than 90 days
- If changes then issue 30 day letter to taxpayer
- If changes not acceptable to taxpayer then upon receipt of appeal by taxpayer within 30 days board of tax assessors… **either** delivers all papers to appeal administrator and a copy to taxpayer **or** forwards appeal to board of equalization if so selected by taxpayer

55

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Appeals to hearing officer (Cont.)

- Appeal administrator selects hearing officer and notifies taxpayer and transmits a copy of the hearing officers disqualification questionnaire and resume
- Hearing officer sets time and place to hear evidence and testimony and provides electronic or written notice to the parties by registered or certified mail or overnight delivery at least 10 days before hearing

56

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Appeals to hearing officer (Cont.)

- Notice by hearing officer of hearing shall advise each party that documents or other written evidence to be presented must be provided to other party not less than 7 days prior to hearing
- Failure to provide evidence at least 7 days prior to hearing grounds for continuance or for exclusion of such evidence

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Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Appeals to hearing officer (Cont.)

- If appeal administrator cannot find qualified hearing officer to serve…
  - Appeal administrator shall transfer certification of appeal to board of equalization and notify taxpayer, taxpayer attorney and county board of tax assessors

58

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Appeals to hearing officer (Cont.)

- At end of appeal hearing the hearing officer shall notify parties of decision verbally and send both parties the decision in writing or deliver by hand the decision to each party, with written receipt

59

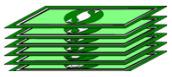
Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Appeals to hearing officer (Cont.)

- Hearing officer compensation
  - Not less than $75 per hour for first hour
  - Not less than $25 per hour each hour thereafter
  - Or as agreed upon by the parties with the consent of the county governing authority



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Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Appeals to hearing officer (Cont.)

- Hearing officer annual continuing education requirement of at least four hours of instruction in recent legislation, current case law and updates on appraisal and equalization procedures as prepared and required by commissioner

- Also initial eight hour course still exists
- Failure of hearing officer to fulfill these requirements renders hearing officer unable to serve

61

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 *OCGA 48-5-311

Appeals to hearing officer (Cont.)

- Appeals to hearing officer…
  - same temporary billing procedure as board of equalization appeals

62

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- In the course of any assessment, appeal, arbitration or related proceeding taxpayer is entitled to…
  - Have interview with officer or employee authorized to discuss tax assessments and record such interview at taxpayers expense and with taxpayer equipment
  - Record all proceedings, at taxpayer expense and with taxpayer equipment, before the board of equalization or hearing officer
  - Interview must be granted to taxpayer within 30 days of the postmark of the taxpayer request

63

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- Interviews and proceedings…
  - Superior courts have jurisdiction to enforce provisions regarding interviews and proceedings and the recording of such

* Taxpayer can be awarded $100 per occurrence for noncompliance and reasonable attorneys fees for failure of board of assessors to timely comply with interview request

64

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- Board of equalization online training

- each BOE member participating in online training provided by the department compensated by the county at the rate of **$25** per day for each eight hours of completed training

* member to provide affidavit (form provided by CSCCG) and certify under oath to appeal administrator that training is completed

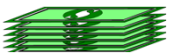
65

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

- Final billing upon resolution of appeal
- If refund owed to taxpayer…
- Interest figured from the due date or date paid, whichever later, through the date on which the final determination of value is made subject to the $150 and $5,000 limits for homestead and non-homestead property
- Any refund paid after 60th day of final determination of value should include interest at 1% per month not subject to $150 and $5,000 limit



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Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Final billing upon resolution of appeal

- If additional tax due from taxpayer…
- Taxpayer given 60 days from date of postmark to pay additional tax due without any interest added
- Once 60 day payment period is expired bill is considered past due and interest accrues at 1% a month from original billing due date until bill is paid in full

67

Georgia Department of Revenue

House Bill 202 *effective **July 1, 2015**

Section 15 **OCGA 48-5-311*

Line 1279… Service of notice

When a taxpayer authorizes an agent, representative or attorney in writing to act on taxpayer's behalf and such authorization is given to county board of tax assessors…

- All notices and other correspondence shall be provided to the taxpayer and the taxpayer's representative
- Upon agreement with board of assessors and taxpayer's representative all notices and correspondence can be sent by email
- Failure to provide required notices tolls any deadline imposed on the taxpayer with respect to that notice

68

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 16 **OCGA 48-5-311*

Arbitration

- Nonbinding arbitration (taxpayer can appeal to superior court)
- Board of tax assessors has burden of proof of its value
- Temporary tax bill issued in same manner as BOE appeals

69

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 16 **OCGA 48-5-311*

Arbitration (Cont.)

- Arbitrator determines FMV (formerly either BOA value or taxpayer value)
- Whichever party value not closest to arbitrator value pays for fees and cost of arbitrator

70

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 16 **OCGA 48-5-311*

Appeals to superior court

- Requires settlement conference
- Within 30 days of receipt of notice of appeal
  - BOA notifies taxpayer notice of settlement conference
  - conference held at date & time no later than 30 days from notice of settlement conference
  - taxpayer has one time option to reschedule conference

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Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 16 **OCGA 48-5-311*

Appeals to superior court (Cont.)

- Requires settlement conference
- End of 45 day review period - if BOA does not hold conference taxpayer's value becomes final value for year
- If taxpayer does not participate in settlement conference cannot be awarded fees and costs when appeal settled in superior court

72

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 16 **OCGA 48-5-311*

Appeals to superior court (Cont.)

- Requires settlement conference
- If no agreement reached at settlement co taxpayer that filing fees must be paid within 10 days of date of conference
- Filing fee of $25
- Within 30 days of receipt of payment to clerk of superior court BOA certifies notice of appeal and other papers

73

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 18 **OCGA 48-5-345*

- As part of digest submission counties to include…
  1) number,
  2) overall value and
  3) percentage total

of all real property parcels under appeal to BOE, arbitration, hearing officer and superior court and also provide "number of taxpayers failing to appear at any hearing for the prior tax year"

*Information to be made publicly available on DOR website

74

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 18 **OCGA 48-5-345*-

No county subject to assessment of additional state tax due for lower overall assessment ratio

75

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 19 **OCGA 48-5-405*

- Municipalities may levy a mill rate to support and maintain public schools upon all taxable property within the limits of the independent school system (formerly municipality)

76

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Sections 20 & 22 **OCGA 48-5-492 & 48-5-494*

Deadline to obtain location permit for current year and pay taxes due changes from May 1st to **April 1st**

77

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 21 **OCGA 48-5-493*

- Penalty for failure to attach and display decal goes to $100 to no more than $300 (formerly $25 to $200)
- Upon proof of purchase of decal prior to summons fine no more than $50 (formerly $25) but if person owns more than one mobile home in an individual mobile home park then maximum fine for such person not exceed **$1000**

78

Georgia Department of Revenue

House Bill 202 *effective **January 1, 2016**

Section 24 & 25 **OCGA 48-6-2 & 48-6-4*

Real Estate Transfer Tax

- Intent that the actual consideration of real and personal property conveyed be shown separately on the PT-61

Disclosure of amount of tax and actual consideration made on PT-61

79

Georgia Department of Revenue

House Bill 215
Equalized Homestead Option Sales Tax

Leaves the current HOST statute in place but adds a new type of HOST called the Equalized Homestead Option Sales Tax (EHOST).

- cannot be levied if LOST is in effect;
- approval of EHOST requires the simultaneous approval of a SPLOST
- a special procedure is included for DeKalb County, but not Rockdale County, to repeal HOST and replace it with EHOST plus the requisite SPLOST

80

Georgia Department of Revenue

House Bill 234
Filing Returns and Paying Tax

When the filing of any document or the payment of any tax or license fee pursuant to title 48 or any law relating to the taxation and licensing of automobiles, trucks, or trailers falls on a Saturday, Sunday, ~~or~~ legal holiday, or day on which the Federal Reserve Bank is closed, the making of the return, the filing of the paper or document, or the payment of the tax or license fee shall be postponed by the person required to take such action until the first day following which is not a Saturday, Sunday, ~~or~~ legal holiday, or day on which the Federal Reserve Bank is closed."

81

Georgia Department of Revenue

House Bill 322

Notwithstanding the provisions of subsection (a) of Code Section 44-12-216, United States savings bonds which are unclaimed property and subject to the provisions of Code Section 44-12-190, et seq., the 'Disposition of Unclaimed Property Act,' shall escheat to the State of Georgia three years after becoming unclaimed property and subject to the provisions of Code Section 44-12-190, et seq., and all property rights to such United States savings bonds or proceeds from such bonds shall vest solely in the State of Georgia.

82

Georgia Department of Revenue

House Bill 374

OCGA 48-5-504

Self propelled farm equipment exemption

dealer inventory held for resale includes **forestry** equipment

83

Georgia Department of Revenue

House Bill 374

OCGA 48-5-41.1

Farm equipment purchased through a lease purchase agreement exempt from ad valorem taxation

must be purchased by owner with ad valorem tax exemption family owned qualified farm products producer

84

Georgia Department of Revenue

House Bill 457 *effective January 1, 2016

Watercraft Dealers

Watercraft inventory exempt from ad valorem tax

January 1, 2016 – December 31, 2019

OCGA 48-5-504.40

85

Georgia Department of Revenue

Senate Bill 82 *effective March 31, 2015

OCGA 40-2-152

- New distribution formula for AAVT (Alternative Ad Valorem Tax) proceeds (IRP fees)

86

Georgia Department of Revenue

NEW!

Senate Bill 82 - AAVT

First distribution on or before August 1, 2015

The AAVT will be distributed to counties based on the **2013 benchmark** ad valorem tax digest for IRP vehicles determined by the ad valorem tax paid to qualified tax jurisdictions

87

Georgia Department of Revenue

Senate Bill 82 - AAVT

The qualified tax jurisdictions levies for property tax on real and tangible personal property are:

- County
- Municipality
- County School District
- Independent School District

88

Georgia Department of Revenue

Senate Bill 82 - AAVT

The qualified tax jurisdiction shall receive

- Year 2015 – 100% of 2013 benchmark, then
- Year 2016 – 80%
- Year 2017 – 60%
- Year 2018 – 40%
- Year 2019 – 20%

89

Georgia Department of Revenue

2015 Legislation Review

Motor Vehicle

1

Georgia Department of Revenue

House Bill 48

NEW!

Special License Plate

Law enforcement officer, firefighter, emergency medical services personnel, ambulance driver or similar employed first responder that sustained a major injury through no fault of their own during the competent performance of his or her duty…

- $25.00 Manufacturing fee
- $35.00 Annual renewal registration fee

2

Georgia Department of Revenue

House Bill 48

NEW!

Special License Plate

Georgia State Defense Force

- Member of the Georgia State Defense Force
- No registration, manufacturing or annual fees
- Additional License Plate - annual registration fees plus
  - $25.00 Manufacturing fee
  - $25.00 Annual registration fee
- Issued to Private passenger cars, trucks, motorcycles and trailers

3

Georgia Department of Revenue

House Bill 48

Special License Plate

Honoring Family Members of Service Members Killed in Action

- Spouse
- Mother or Father or Step Parent
- Sibling
- Child
- Surviving spouse of such service member's sibling

NEW!

4

Georgia Department of Revenue

House Bill 48

Special and Distinctive license plates for veterans

- Veterans who served in the armed forces
- Received a [certain] military medal award
- Served in active military combat
- No registration, manufacturing or annual fees
- Additional License Plate – annual registration fees plus
  - $25.00 Manufacturing fee
  - $25.00 Annual registration fee

5

Georgia Department of Revenue

House Bill 48

Special License Plate

Special and Distinctive license plates for veterans

- Private passenger vehicles and pick up trucks
- Recreational vehicles
- Trailers
- **Motorcycles**

NEW!

6

Georgia Department of Revenue

House Bill 48

Disabled Veteran License Plate

Definition Change: NEW!

"the term 'disabled veteran' means any veteran who was discharged under honorable conditions and who has been adjudicated by the United States Department of Veterans Affairs as …

7

Georgia Department of Revenue

House Bill 48

Disabled Veteran License Plate

- Being 100 percent totally disabled… or
- As being less than 100 percent totally disabled but is compensated at the 100 percent level due to individual unemployability **and**
- Is entitled to receive a statutory award from the United States Department of Veterans Affairs

8

Georgia Department of Revenue

House Bill 48

- Presentation of proof from USDVA
- No charge for a Disabled Veteran License Plate
- May jointly own or may acquire in the future with spouse or minor child
- Use on private passenger vehicle or pickup truck or a motorcycle, station wagon or van
- After death, license plate may be retained by unremarried spouse or minor child NEW!

9

Georgia Department of Revenue

House Bill 48

Special License Plate

- New license plates images will be available on or after July 1, 2015.
- Updated requirements or new procedures, forms, or processes will be forthcoming on or before to July 1, 2015.

10

Georgia Department of Revenue

House Bill 48

Disabled Veteran **Ad Valorem Tax** Exemption

NEW!

Definition Change:

Beginning July 1 - "the term 'disabled veteran' means any veteran who was discharged under honorable conditions and who has been adjudicated by the United States Department of Veterans Affairs as …**or**

11

Georgia Department of Revenue

House Bill 48

Disabled Veteran **Ad Valorem Tax** Exemption

- Being 100 percent totally disabled… or
- As being less than 100 percent totally disabled but is compensated at the 100 percent level due to individual unemployability **and**
- Is entitled to receive a statutory award from the United States Department of Veterans Affairs

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Georgia Department of Revenue

House Bill 48

Disabled Veteran Ad Valorem Tax Exemption

- Discharged under honorable conditions
- Citizen of Georgia
- Resident of Georgia
- Eligible for and registers a disabled veteran license plate under § 40-2-69
- Unremarried surviving spouse or minor child may continue to received the exemption NEW!

13

Georgia Department of Revenue

House Bill 94

Georgia Resident ad valorem tax penalty relief.

- Resident of Georgia
- Voluntarily cancels registration
- Files form with attachments
- Relieves ad valorem tax penalty incurred while vehicle is voluntarily cancelled.

14

Georgia Department of Revenue

House Bill 147

- Beginning July 1
- Two-year registration option
  - New motor vehicle (MSO/MCO)
  - Passenger cars designed for carrying 10 passengers or less
  - Register during initial registration period
  - $40.00 fee
  - Annual renewal registration thereafter

15

Georgia Department of Revenue

House Bill 170

Transportation Act

- Beginning July 1 - New definition for Alternative Fueled Vehicles (AFV) NEW!
- Operates solely by electricity, natural gas, or propane
- Operates as a bi-fuel or dual fuel using electricity, natural gas or propane

16

Georgia Department of Revenue

House Bill 170

Transportation Act

Title 40: Protection of Environment
PART 88—CLEAN-FUEL VEHICLES
Subpart A—Emission Standards for Clean-Fuel Vehicles

§88.102-94 Definitions.

- Any terms defined in 40 CFR part 86 and not defined in this part shall have the meaning given them in 40 CFR part 86, subpart A. . .
- *Dual Fuel Vehicle (or Engine)* means any motor vehicle (or motor vehicle engine) engineered and designed to be operated on two different fuels, but not on a mixture of the fuels.
- Bi-fuel systems are also called "switchable" systems because you can switch between gasoline or CNG.

17

Georgia Department of Revenue

House Bill 170

Transportation Act

- AFV License Plate:
- Exclusive to vehicles operating with electricity, natural gas or propane including bi-fuel or dual fuel
- Payment of additional registration fee prior to issuance of the AFV license plate unless except natural gas or propane

18

Georgia Department of Revenue

House Bill 170

Transportation Act

- AFV License Plate is exclusive to those vehicle operating with electricity, natural gas or propane including bi-fuel or dual fuel
- Payment of annual registration fee
- Payment of annual special license plate fees

19

Georgia Department of Revenue

House Bill 170

NEW!

Transportation Act

- Additional Alternative Fueled Vehicle Fee for all alternative fueled vehicles, except compressed or liquefied natural gas, liquefied petroleum gas.
  - For a personal owned vehicle $200.00, or
  - For a business owned vehicle $300.00, and
  - In addition to Annual Registration Fee

20

Georgia Department of Revenue

House Bill 170

NEW!

Transportation Act

- Highway Impact Fee for commercial vehicles
- Certain commercial vehicles that are manufactured with a GVW of:
  - 15,550 lbs. to 26,000 lbs. $50.00, or
  - Greater than 26,001 lbs. $100.00, and
  - Annual Registration Fee $25.00 to $750.00

21

Georgia Department of Revenue

House Bill 202

Title Ad Valorem Tax

- Applies to Fulton, DeKalb and Clayton
- Commissioner to determine the sales tax attributed to MARTA in 2012
- Beginning January 1, 2016 - Tax Commissioners will 'true up' an additional amount equal to the sales tax revenue for MARTA from the TAVT

22

Georgia Department of Revenue

House Bill 225

Transportation Referral Service

- Effective July 1, 2017
- Registration required with the Department of Public Safety or local government.
  - Limousine
  - Taxi
  - Ride Share, such as "Uber","Lift", etc.

23

Georgia Department of Revenue

House Bill 225

Transportation Referral Service

- Prior to the issuance or renewal of a Limousine or Taxi license plate, the owner must present registration from Georgia Department of Public Safety or local government
- Details to follow…next session

24

Georgia Department of Revenue

Senate Bill 82

Alternative Ad Valorem Tax (AAVT)

- Alternative Ad Valorem Tax for vehicles registered under the International Registration Plan (IRP)
- IRP registrations include an AAVT fee in addition to their Georgia registration fee.
- The AAVT fee is held in a dedicated fund by the department

25

Georgia Department of Revenue

Senate Bill 82

NEW!

Alternative Ad Valorem Tax (AAVT)

- First distribution on or before August 1, 2015
- The AAVT will be distributed to counties based on the **2013 benchmark** ad valorem tax digest for IRP vehicles determined by the ad valorem tax paid to qualified tax jurisdictions

26

Georgia Department of Revenue

Senate Bill 82

Alternative Ad Valorem Tax (AAVT)

- The qualified tax jurisdictions levies for property tax on real and tangible personal property are:
  - County
  - Municipality
  - County School District
  - Independent School District

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Georgia Department of Revenue

Senate Bill 82

Alternative Ad Valorem Tax (AAVT)

- The qualified tax jurisdiction shall receive
- Year 2015 – 100% of 2013 benchmark, then
- Year 2016 – 80%
- Year 2017 – 60%
- Year 2018 – 40%
- Year 2019 – 20%

28

Georgia Department of Revenue

Senate Bill 82

Alternative Ad Valorem Tax (AAVT)

- Any remaining funds remaining after satisfying the benchmark will be distributed by the following formula:
  - The Commissioner shall determine the ratio of IRP vehicles registered and attributed to each county
  - The allocated proceeds shall then be distributed based on the ratio of the qualified tax jurisdiction

29

Georgia Department of Revenue

Senate Bill 82

Alternative Ad Valorem Tax (AAVT)

- The qualified tax jurisdiction shall receive in the Year 2020 exclusive to this formula
  - The Commissioner shall determine the ratio of IRP registered vehicles attributed to each county
  - The allocated proceeds shall then be distributed based on the ratio of the qualified tax jurisdiction
  - This formula is used for the excess of the 2013 benchmark distribution

30

Georgia Department of Revenue

Senate Bill 82

Alternative Ad Valorem Tax (AAVT)

Example Statewide AAVT - $15,948,039.74

Total Statewide 2013 benchmark distribution: $9,007,200.00

- Example County:
  - Example County ad valorem tax for IRP Vehicles subject to the ratio $392,085.00 (true-up)

31

Georgia Department of Revenue

Senate Bill 82

Alternative Ad Valorem Tax (AAVT)

After the true-up, the remaining AAVT fees will be distributed based on the ration of the most recently submitted digest for qualified tax jurisdictions

Actual distribution will be detailed in the coming months

32

Georgia Department of Revenue

Senate Bill 82

Alternative Ad Valorem Tax (AAVT)

Example: AAVT - $6,940,839.00

- Statewide IRP vehicles by county is 45,171
  - Example County has 2,235 IRP vehicles which is a ratio of 4.9479% which equals $343,425.77
  - Example County Ratio is 26.9935% = $92,702.63
  - Municipalities Ratio is 19.9912% = $68,654.93
  - County School District is 24.9459% = $85,670.64
  - Independent School District is 27.9820% = $90,097.39

33

Georgia Department of Revenue

Senate Bill 82

Alternative Ad Valorem Tax (AAVT)

- Example: Year 2020 AAVT - $15,948,039.74
- Statewide IRP vehicles by county is 45,171
  - County has 2,235 IRP vehicles which is a ratio of 4.9479% which equals $789,087.44
  - County Ratio is 26.9935% = $213,002.32
  - Municipalities Ratio is 19.9912% = $157,810.54
  - County School District is 24.9459% = $196,844.96
  - Independent School District is 27.9820% = $220,802.44

34

Georgia Department of Revenue

Senate Bill 100

For-hire intrastate motor carrier

- 'For-hire intrastate motor carrier' means an entity engaged in the transportation of goods or ten or more passengers for compensation that operate wholly within the boundaries of this state.
- Regulated by state and federal motor carrier enforcement
- Usually registered at the County Tag Office (See Rate Chart for proper registration class and fees).

35

Georgia Department of Revenue

Senate Bill 100

Intrastate motor carrier

- A person that operates 'Any self-propelled or towed motor vehicle operated by an entity that is used on a highway in intrastate commerce to transport passengers or property and:
  - **(A)** Has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight of 4,536 kg (10,001 lbs.) or more, whichever is greater;

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Georgia Department of Revenue

Senate Bill 100

Intrastate motor carrier

- A person that operates 'Any self-propelled or towed motor vehicle operated by an entity that is used on a highway in intrastate commerce to transport passengers or property and:
  - **(B)** Is designed or used to transport more than ten passengers, including the driver, and is not used to transport passengers for compensation; or

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Georgia Department of Revenue

Senate Bill 100

Intrastate motor carrier

- A person that operates 'Any self-propelled or towed motor vehicle operated by an entity that is used on a highway in intrastate commerce to transport passengers or property and:
  - **(C)** Is used to transport material found by the United States Secretary of Transportation to be hazardous pursuant to 49 U.S.C. Section 5103 and is transported in any quantity.

38

Georgia Department of Revenue

Senate Bill 100

Emission Inspections

- July 1, an emission county may issue a temporary operating permit for a vehicle that has failed an emission inspection
- Must have liability insurance
- Must pay any taxes, penalties or other fees
- Issued for 30 days, no registration fees
- Not renewable

39

House Bill 48 (AS PASSED HOUSE AND SENATE)

By: Representatives Coleman of the 97th, Rice of the 95th, and Jones of the 53rd

A BILL TO BE ENTITLED

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 provide for a special and distinctive motor vehicle license plate for public safety first responders who have received a major injury in the line of duty; to provide for standards for the issuance of such license plates; to provide for applicable fees; to provide for authority to establish rules and regulations; to provide for a definition of "disabled veteran"; to provide for issuance of free motor vehicle license plates to disabled veterans; to provide for eligibility; to provide for revalidation of such license plates; to provide for the transfer of such license plates upon death; to provide for issuance of special and distinctive license plates for use on motorcycles; to extend eligibility to apply for such license plates to include a surviving spouse of a sibling of the service member; to provide for a minimum number of applicants prior to issuance of a new special license plate; to provide for a special and distinctive motor vehicle license plate for members of the Georgia State Defense Force; to amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem taxation of property, so as to provide for a definition of "disabled veteran" for homestead exemption purposes; to provide for an exemption to motor vehicle ad valorem taxes for disabled veterans; 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 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 Code section to read as follows:

"40-2-63.1.

(a) Any law enforcement officer, firefighter, emergency medical services personnel, ambulance driver, or other similarly employed public safety first responder who has

sustained a major injury through no fault of his or her own during the competent performance of his or her official duties shall, upon application therefor, be issued a special and distinctive motor vehicle license plate upon presentation of proof that such individual is entitled to receive such special license plate. Application for such license plates shall include payment of a manufacturing fee of $25.00. For purposes of this Code section, a major injury shall be one that was of sufficient seriousness as to require hospitalization or comparable medical treatment and which resulted in permanent disability or disfigurement of the body.

(b) License plates issued pursuant to this Code section need not contain a place for the county name decal, and a county name decal need not be affixed to a license plate issued pursuant to this Code section. Special and distinctive license plates issued pursuant to this Code section shall be renewed annually, and revalidation decals shall be issued upon compliance with the laws relating to registration and licensing and upon payment of an additional registration fee of $35.00 which shall be collected by the county tag agent at the time for collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34. The special license plates issued pursuant to this Code section shall be transferred to another vehicle as provided in Code Section 40-2-80.

(c) The commissioner is authorized and directed to design the license plate, establish procedures, establish standards for proof of eligibility, and promulgate rules and regulations to effectuate the purposes of this Code section.″

SECTION 2.

Said article is further amended by revising Code Section 40-2-69, relating to free license plates and revalidation decals for certain disabled veterans, as follows:

″40-2-69.

(a) Any disabled veteran ~~who was discharged under honorable conditions and who served on active duty in the armed forces of the United States or on active duty in a reserve component of the United States, including the National Guard,~~ who is a citizen and resident of this state shall, upon application therefor, be issued a free motor vehicle license plate. ~~upon presentation of proof that such veteran is receiving or that he or she is entitled to receive a statutory award from the United States Department of Veterans Affairs for~~ As used in this Code section, the term 'disabled veteran' means any veteran who was discharged under honorable conditions and who has been adjudicated by the United States Department of Veterans Affairs as being 100 percent totally disabled or as being less than 100 percent totally disabled but is compensated at the 100 percent level due to individual unemployability and is entitled to receive a statutory award from the United States Department of Veterans Affairs for:

(1) Loss or permanent loss of use of one or both feet;

(2) Loss or permanent loss of use of one or both hands;

(3) Loss of sight in one or both eyes; or

(4) Permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends on angular distance no greater than 20 degrees in the better eye.

(b) Any disabled veteran ~~who was discharged under honorable conditions and who has been adjudicated by the United States Department of Veterans Affairs as being 100 percent totally disabled and entitled to receive service connected benefits~~ shall, upon application therefor, be issued a free motor vehicle license plate upon presentation of proof that he or she ~~is receiving or that he or she is entitled to receive benefits for a 100 percent service connected disability, as long as he or she is 100 percent disabled~~ qualifies as a disabled veteran. A disabled veteran who claims that ~~such 100 percent total~~ his or her disability is permanent shall furnish proof of such permanent disability through a letter from the United States Department of Veterans Affairs.

(c)(1) Once a disabled veteran has established his or her eligibility to receive free motor vehicle license plates as a result of being permanently disabled, he or she shall be entitled to receive free plates or free revalidation decals in succeeding years on any automobile, private passenger pickup truck, motorcycle, station wagon, or van type vehicle of three-quarter tons or less that he or she may own or jointly with his or her spouse or minor child own or acquire in the future.

(2) Once a disabled veteran has established his or her eligibility to receive free motor vehicle license plates ~~as a result of having a 100 percent total disability which~~ but his or her disability has not been determined to be a permanent disability, he or she shall be entitled to receive free plates or free revalidation decals in succeeding years upon furnishing, on an annual basis, proof of ~~such 100 percent disability~~ his or her status as a disabled veteran through a letter from the United States Department of Veterans Affairs. Such free plates or free revalidation decals shall apply to any automobile, private passenger pickup truck, motorcycle, station wagon, or van type vehicle of three-quarter tons or less that he or she may own or jointly with his or her spouse or minor child own or acquire in the future.

(3)(A) Two license plates or revalidation decals each year shall be furnished for vehicles other than motorcycles to disabled veterans qualifying under this Code section unless the originals are lost. Such plates shall be fastened to both the front and the rear of the vehicle.

(B) One license plate or revalidation decal each year shall be furnished for motorcycles to disabled veterans qualifying under this Code section unless the original is lost. Such plate shall be fastened to the rear of the vehicle.

(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 unremarried surviving spouse or minor child may continue to receive the free special license plates and revalidation decals until the remarriage of the surviving spouse or death of the surviving spouse or minor child."

SECTION 2.1.

Said article is further amended by revising Code Section 40-2-81, which was previously reserved, as follows:

"40-2-81.

(a) For purposes of this Code section, the term 'Georgia State Defense Force' means that organization established pursuant to Part 3 of Article 1 of Chapter 2 of Title 38.

(b)(1) Motor vehicle and trailer owners who are members of the Georgia State Defense Force shall be eligible to receive special and distinctive vehicle license plates for private passenger cars, trucks, motorcycles, or recreational vehicles used for personal transportation. Such license plates shall be issued in compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles as prescribed in Article 2 of this chapter.

(2)(A) Motor vehicle and trailer owners who are members of the Georgia State Defense Force shall be issued upon application for and upon compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles a Georgia State Defense Force member license plate. One such license plate shall be issued without the requisite registration fee, manufacturing fee, or annual registration fee.

(B) Each member of the Georgia State Defense Force shall be entitled to no more than one such free license plate at a time; provided, however, that upon payment of a manufacturing fee of $25.00, a member shall be entitled to one additional such license plate. For each additional license plate for which a $25.00 manufacturing fee is required, there shall be an additional annual registration fee of $25.00 which fee 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.

(c) The commissioner shall design a Georgia State Defense Force member license plate. The commissioner shall promulgate such rules and regulations as may be necessary to enforce compliance with all state license laws relating to the use and operation of private

passenger cars, trucks, motorcycles, and trailers before issuing these license plates in lieu of the regular Georgia license plates. The manufacturing fee for such special and distinctive license plates shall be $25.00. The commissioner is specifically authorized to promulgate all rules and regulations necessary to ensure compliance in instances where such vehicles have been transferred or sold. Such plates shall be nontransferable.

(d) The special and distinctive vehicle license plates shall be as prescribed in Article 2 of this chapter for private passenger cars, trucks, motorcycles, and trailers used for personal transportation. Such plates shall contain such words or symbols, in addition to the numbers and letters prescribed by law, so as to identify distinctively the owners as members of the Georgia State Defense Force.

(e) The license plate issued pursuant to this Code section may be transferred between vehicles as provided in Code Section 40-2-80.

(f) Special license plates issued under this Code section, except as provided in subparagraph (b)(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.

(g) Should a member of the Georgia State Defense Force who has been issued a license plate or license plates be discharged or otherwise separated from the Georgia State Defense Force, the member shall forward his or her Georgia State Defense Force member license plate or plates to the commissioner along with a certificate to the effect that such person has been discharged or otherwise separated from the Georgia State Defense Force, and thereupon the commissioner shall issue a regular license plate, at no additional charge, to such former member of the Georgia State Defense Force to replace the Georgia State Defense Force member plate or plates~~Reserved~~."

SECTION 3.

Said article is further amended in Code Section 40-2-85.1, relating to special and distinctive license plates for veterans, by revising subsections (b), (c), and (d) as follows:

"(b)(1) Motor vehicle and trailer owners who are veterans of the armed forces of the United States, or who have received a military medal award, or persons who served during active military combat shall be eligible to receive special and distinctive vehicle license plates for private passenger cars, motorcycles, trucks, or recreational vehicles used for personal transportation. Such license plates shall be issued in compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles as prescribed in Article 2 of this chapter.

(2)(A) Motor vehicle and trailer owners who are veterans or have received a military medal award or served during active military combat shall be issued upon application

for and upon compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles a veteran's license plate, military medal award recipient license plate, or commemorative service license plate for service during active military combat. One such license plate shall be issued without the requisite registration fee, manufacturing fee, or annual registration fee.

(B) Each member or former member of the armed forces listed in this subsection shall be entitled to no more than one such free license plate at a time; provided, however, that upon payment of a manufacturing fee of $25.00, a member shall be entitled to one additional such license plate. For each additional license plate for which a $25.00 manufacturing fee is required, there shall be an additional annual registration fee of $25.00 which fee 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.

(c) The commissioner shall design a veteran's license plate, a military medal award recipient license plate, and a license plate to commemorate service with the United States armed forces during active military combat. The commissioner shall promulgate such rules and regulations as may be necessary to enforce compliance with all state license laws relating to the use and operation of private passenger cars, motorcycles, trucks, and trailers before issuing these license plates in lieu of the regular Georgia license plates. The manufacturing fee for such special and distinctive license plates shall be $25.00. The commissioner is specifically authorized to promulgate all rules and regulations necessary to ensure compliance in instances where such vehicles have been transferred or sold. Except as provided in subsection (e) of this Code section, such plates shall be nontransferable.

(d) The special and distinctive vehicle license plates shall be as prescribed in Article 2 of this chapter for private passenger cars, motorcycles, trucks, and trailers used for personal transportation. Such plates shall contain such words or symbols, in addition to the numbers and letters prescribed by law, so as to identify distinctively the owners as veterans of the armed forces of the United States, recipients of a military medal award, or persons who served during active military combat and shall additionally identify distinctly the owner as a veteran of one of the following branches of the armed forces: Army, Navy, Marines, Air Force, or Coast Guard."

SECTION 4.

Said article is further amended in Code Section 40-2-85.3, relating to special license plates honoring family members of service members killed in action, by revising subsections (d) and (f) as follows:

"(d) Any motor vehicle owner who is a resident of Georgia, other than one registering under the International Registration Plan, upon complying with state laws relating to registration and licensing of motor vehicles shall be issued such a special license plate upon application therefor. Special license plates issued under this Code section shall be renewed annually with a revalidation decal as provided in Code Section 40-2-31. Upon payment of all ad valorem taxes and other fees due at registration of a motor vehicle an eligible family member may apply for a Gold Star license plate. In order to qualify as an eligible family member for purposes of this Code section, the person must be ~~directly~~ related to the fallen service member as a spouse, mother, father, sibling, child, ~~or~~ step-parent, or surviving spouse of such service member's sibling. One free license plate shall be allowed for the spouse, mother, and father, and they may purchase additional license plates for each motor vehicle they register in this state. Siblings, children, ~~or~~ step-parents, or surviving spouses of siblings of service members may purchase Gold Star license plates for motor vehicles registered in this state. The cost of a Gold Star license plate shall be established by the department, but shall not exceed the cost of other specialty license plates. If a Gold Star license plate is lost, damaged, or stolen, the eligible family member must pay the reasonable cost, to be established by the department, but not to exceed the cost of other specialty license plates, to replace the Gold Star license plate."

"(f) A free Gold Star license plate shall be issued only to the spouse, mother, and father of service members who resided in Georgia at the time of the death of the service member. However, an eligible family member, except for nonresident siblings or surviving spouses of such nonresident siblings, who was not a resident of Georgia at the time of the death of the service member may purchase a Gold Star license plate, at a cost to be established by the department, not to exceed the cost of other specialty license plates."

SECTION 5.

Said article is further amended in Code Section 40-2-86, relating to special license plates promoting certain beneficial projects and supporting certain worthy agencies, funds, or nonprofit corporations, by revising subsection (g) as follows:

"(g) On or after July 1, 2010, no special license plate authorized pursuant to subsections (l), (m), and (n) of this Code section shall be issued except upon the receipt by the department of at least 1,000 prepaid applications along with the manufacturing fees. 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 fees, and all fees shall be refunded to applicants; provided,

however, that once the department has received 1,000 prepaid applications along with the manufacturing fees, the sponsor shall not be entitled to a refund.″

SECTION 6.

Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem taxation of property, is amended in Code Section 48-5-48, relating to eligibility and filing requirements for homestead extension for a qualified disabled veteran, by revising paragraph (1) of subsection (a) as follows:

″(1) ~~A wartime veteran who was discharged under honorable conditions and who has been adjudicated by the Department of Veterans Affairs of the United States as being totally and permanently disabled and entitled to receive service connected benefits so long as he or she is 100 percent disabled and receiving or entitled to receive benefits for a 100 percent service connected disability~~ Any veteran who was discharged under honorable conditions and who has been adjudicated by the United States Department of Veterans Affairs as being 100 percent totally disabled or as being less than 100 percent totally disabled but is compensated at the 100 percent level due to individual unemployability and is entitled to receive a statutory award from the United States Department of Veterans Affairs for:

(A) Loss or permanent loss of use of one or both feet;

(B) Loss or permanent loss of use of one or both hands;

(C) Loss of sight in one or both eyes; or

(D) Permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends on angular distance no greater than 20 degrees in the better eye;″

SECTION 7.

Said chapter is further amended by revising Code Section 48-5-478, relating to constitutional exemption from ad valorem taxation for disabled veterans, as follows:

″48-5-478.

(a) A motor vehicle owned by or leased to a disabled veteran who is a citizen and resident of ~~Georgia~~ this state and on which such disabled veteran actually places the free disabled veteran motor vehicle license plate he or she receives ~~from the State of Georgia~~ pursuant to Code Section 40-2-69 is hereby exempted from all ad valorem taxes for state, county, municipal, and school purposes. ~~The~~ As used in this Code section, the term 'disabled veteran;' ~~as used in this Code section,~~ means any ~~wartime~~ veteran who was discharged

under honorable conditions and who has been adjudicated by the United States Department of Veterans Affairs as being 100 percent totally ~~and permanently~~ disabled or as being less than 100 percent totally disabled but is being compensated at the 100 percent level due to individual unemployability and is entitled to receive ~~service-connected~~ service connected benefits and any veteran who is receiving or who is entitled to receive a statutory award from the United States Department of Veterans Affairs for:

(1) Loss or permanent loss of use of one or both feet;

(2) Loss or permanent loss of use of one or both hands;

(3) Loss of sight in one or both eyes; or

(4) Permanent impairment of vision of both eyes of the following status: ~~Central~~ central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends on angular distance no greater than 20 degrees in the better eye.

(b) Once a disabled veteran has established his or her eligibility for such ad valorem tax exemption by being 100 percent totally disabled, he or she shall be entitled to receive such ad valorem tax exemption in succeeding years thereafter. A disabled veteran who claims 100 percent total disability shall furnish proof of such disability through a letter from the United States Department of Veterans Affairs.

(c) Once a disabled veteran has established his or her eligibility for such ad valorem tax exemption but his or her disability has not been adjudicated a 100 percent total disability, he or she shall be entitled to such ad valorem tax exemption in succeeding years upon furnishing, on an annual basis, proof of his or her status as a disabled veteran through a letter from the United States Department of Veterans Affairs.

(d) In the event of the death of the disabled veteran who received such ad valorem tax exemption pursuant to this Code section, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles, his or her unmarried surviving spouse or minor child may continue to receive the exemption.″

SECTION 8.

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

House Bill 94 (AS PASSED HOUSE AND SENATE)

By: Representatives Williams of the 119th, Yates of the 73rd, Atwood of the 179th, and Belton of the 112th

A BILL TO BE ENTITLED

AN ACT

To amend Part 1 of Article 10 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions regarding the ad valorem taxation of motor vehicles and motor homes, so as to exempt certain persons from penalties for failure to timely pay the ad valorem tax; 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.

Part 1 of Article 10 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions regarding the ad valorem taxation of motor vehicles and motor homes, is amended by revising Code Section 48-5-451, relating to the penalty for failure to make return or pay tax on a motor vehicle or mobile home, as follows:

"48-5-451.

(a) ~~Every~~ Except as otherwise provided in subsection (b) of this Code section, every owner of a motor vehicle or a mobile home, in addition to the ad valorem tax due on the motor vehicle or mobile home, shall be liable for a penalty of 10 percent of the tax due or $5.00, whichever is greater, for the failure to make the return or pay the tax in accordance with this article.

(b) Any Georgia resident who voluntarily cancels the registration of his or her motor vehicle pursuant to Code Section 40-2-10 shall not be assessed any penalty for failure to pay the tax due on a motor vehicle under subsection (a) of this Code section for any such period of time. Any such person shall remain liable for the ad valorem tax due on a motor vehicle he or she owns. This subsection shall not apply to motor vehicles subject to Code Section 48-5-441.1. The commissioner shall promulgate any necessary rules and forms to implement the provisions of this subsection."

SECTION 2.

This Act shall become effective on July 1, 2015, and shall be applicable to any penalties assessed on or after that date. Any proceedings instituted for the collection of penalties under the law in existence prior to July 1, 2015, shall not be affected by the enactment of this Act.

SECTION 3.

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

House Bill 147 (AS PASSED HOUSE AND SENATE)

By: Representatives Powell of the 32nd, Knight of the 130th, Peake of the 141st, and Hatchett of the 150th

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles, so as to provide for an initial two-year registration period for certain vehicles; to provide for certain fees; 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 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles, is amended by revising Code Section 40-2-20, relating to registration and license requirements, as follows:

"40-2-20.

(a)(1)(A) Except as provided in ~~subsection~~ subsections (b) and (d) of this Code section and subsection (a) of Code Section 40-2-47, every owner of a motor vehicle, including a tractor or motorcycle, and every owner of a trailer shall, during the owner's registration period in each year, register such vehicle as provided in this chapter and obtain a license to operate it for the 12 month period until such person's next registration period.

(B)(i) The purchaser or other transferee owner of every new or used motor vehicle, including tractors and motorcycles, or trailer shall register such vehicle as provided in Code Section 40-2-8 and obtain or transfer as provided in this chapter a license to operate it for the period remaining until such person's next registration period which immediately follows such initial registration period, without regard to whether such next registration period occurs in the same calendar year as the initial registration period or how soon such next registration period follows the initial registration period; provided, however, that this registration and licensing requirement does not apply to a dealer which acquires a new or used motor vehicle and holds it for resale. The commissioner may provide by rule or regulation for one 30 day extension of such

initial registration period which may be granted by the county tag agent if the transferor has not provided such purchaser or other transferee owner with a title to the motor vehicle more than five business days prior to the expiration of such initial registration period. The county tag agent shall grant an extension of the initial registration period when the transferor, purchaser, or transferee can demonstrate by affidavit in a form provided by the commissioner that title has not been provided to the purchaser or transferee due to the failure of a security interest or lienholder to timely release a security interest or lien in accordance with Code Section 40-3-56.

(ii) No person, company, or corporation, including, but not limited to, used motor vehicle dealers and auto auctions, shall sell or transfer a motor vehicle without providing to the purchaser or transferee of such motor vehicle the last certificate of registration on such vehicle at the time of such sale or transfer; provided, however, that in the case of a salvage motor vehicle or a motor vehicle which is stolen but subsequently recovered by the insurance company after payment of a total loss claim, the salvage dealer or insurer, respectively, shall not be required to provide the certificate of registration for such vehicle; and provided, further, that in the case of a repossessed motor vehicle or a court ordered sale or other involuntary transfer, the lienholder or the transferor shall not be required to provide the certificate of registration for such vehicle but shall, prior to the sale of such vehicle, surrender the license plate of such vehicle to the commissioner or the county tag agent by personal delivery or by certified mail or statutory overnight delivery for cancellation.

(2) An application for the registration of a motor vehicle may not be submitted separately from the application for a certificate of title for such motor vehicle, unless a certificate of title has been issued in the owner's name, has been applied for in the owner's name, or the motor vehicle is not required to be titled. An application for a certificate of title for a motor vehicle may be submitted separately from the application for the registration of such motor vehicle.

(b) Subsection (a) of this Code section shall not apply:

(1) To any motor vehicle or trailer owned by the state or any municipality or other political subdivision of this state and used exclusively for governmental functions except to the extent provided by Code Section 40-2-37;

(2) To any tractor or three-wheeled motorcycle used only for agricultural purposes;

(2.1) To any vehicle or equipment used for transporting cargo or containers between and within wharves, storage areas, or terminals within the facilities of any port under the jurisdiction of the Georgia Ports Authority when such vehicle or equipment is being operated upon any public road not part of The Dwight D. Eisenhower System of Interstate and Defense Highways by the owner thereof or his or her agent within a radius

of ten miles of the port facility of origin and accompanied by an escort vehicle equipped with one or more operating amber flashing lights that are visible from a distance of 500 feet;

(3) To any trailer which has no springs and which is being employed in hauling unprocessed farm products to their first market destination;

(4) To any trailer which has no springs, which is pulled from a tongue, and which is used primarily to transport fertilizer to a farm;

(5) To any electric powered personal transportation vehicle;

(6) To any moped; or

(7) To any golf car.

(c) Any person who fails to register a new or used motor vehicle as required in subsection (a) of this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $100.00.

(d) Upon the payment of the requisite fee, the purchaser of a new motor vehicle passenger car, as such terms are defined in paragraphs (34) and (41) of Code Section 40-1-1, for which such purchaser has paid state and local title ad valorem taxes may choose to register such passenger car for an initial period of two years instead of the annual registration provided for in this Code section provided that the motor vehicle owner does not elect a prestige or special license plate. Thereafter, such passenger car shall be subject to the annual registration requirements of this Code section."

SECTION 2.

Said chapter is further amended by adding a new subsection to Code Section 40-2-151, relating to annual license fees for operation of vehicles and fee for permanent licensing of certain trailers, to read as follows:

"(c) The fee for a new passenger car for which the purchaser has paid state and local title ad valorem taxes and that is being registered as provided in subsection (d) of Code Section 40-2-20 shall be $40.00 for the two-year registration period."

SECTION 3.

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

House Bill 170 (AS PASSED HOUSE AND SENATE)

By: Representatives Roberts of the 155th, Burns of the 159th, Hamilton of the 24th, England of the 116th, Hatchett of the 150th, and others

A BILL TO BE ENTITLED

AN ACT

To amend various provisions of the Official Code of Georgia Annotated so as to provide for additional revenue necessary for funding transportation purposes in this state; to amend Title 28 of the Official Code of Georgia Annotated, relating to the General Assembly, so as to create the Special Joint Committee on Georgia Revenue Structure; to amend Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries, so as to require an annual report from the Department of Transportation; to amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to levy a registration fee on alternative fueled vehicles; to amend Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor, so as to limit the Governor's power to suspend the collection of certain motor fuel taxes and require ratification by the General Assembly; to amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to reduce the state income tax credits for low-emission vehicles to zero; to provide for the elimination of state sales and use taxes with respect to certain sales of motor fuels; to revise the exemption from sales and use taxes for jet fuel; to provide for revised definitions of certain terms relating to prepaid motor fuel taxes; to provide a limit on local sales taxes on motor fuels; to change the rate and method of computation of the excise tax on motor fuels; to repeal the second motor fuel tax; to provide for editorial revision; to provide for a state fee on hotel or motel room rentals; to amend Part 3 of Article 2 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated, the "Georgia Transportation Infrastructure Bank Act," so as to provide revised criteria for determination of eligible projects by the Transportation Infrastructure Bank; to amend Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use taxation, so as to change certain provisions relating to the special district transportation sales and use tax pursuant to the Transportation Investment Act of 2010; to provide for future levies to be at a fractional rate; to change procedures and requirements regarding the future imposition of such tax; to change certain provisions regarding the ceiling on the amount of local sales and use taxes; to provide for an additional transportation special purpose local option sales and use tax by counties and municipalities; to provide for definitions, procedures, conditions, and

limitations for the imposition, collection, disbursement, and termination of the tax; to provide for powers, duties, and authority of the state revenue commissioner; to provide for a short title; to provide for appropriations of increases in revenue; 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:

PART I

SECTION 1-1.

Title 28 of the Official Code of Georgia Annotated, relating to the General Assembly, is amended by adding a new chapter to read as follows:

"CHAPTER 12

28-12-1.

(a) There is created the Special Joint Committee on Georgia Revenue Structure which shall consist of 14 members as follows:

(1) The President Pro Tempore of the Senate and the Speaker Pro Tempore of the House of Representatives;

(2) The majority leader of the Senate and the majority leader of the House of Representatives;

(3) The minority leader of the Senate and the minority leader of the House of Representatives;

(4) The chairpersons of the Senate Finance Committee and the House Committee on Ways and Means;

(5) Three members of the Senate to be appointed by the President of the Senate, two from the majority party and one from the minority party; and

(6) Three members of the House of Representatives to be appointed by the Speaker of the House of Representatives, two from the majority party and one from the minority party.

(b) The Special Joint Committee on Georgia Revenue Structure shall elect two persons, one Senator and one Representative, to serve as co-chairpersons of the special joint committee.

28-12-2.

(a) The Special Joint Committee on Georgia Revenue Structure created in Code Section 28-12-1 shall during the 2016 legislative session cause to be introduced in the House of Representatives one or more bills or resolutions relating to tax reform, and such legislation shall, after its introduction, be referred directly and only to the special joint committee.

(b) If the special joint committee recommends that one or more bills or resolutions referred to it do pass or do pass by committee substitute, the measure or measures recommended by the special joint committee shall then be in order for consideration only by the House of Representatives at any time fixed by the Speaker of the House of Representatives. Any such bill or resolution shall be reported directly to the floor of the House of Representatives and shall receive an up or down vote as reported from the special joint committee without amendment.

(c) If one or more bills or resolutions referred by the special joint committee are passed by the House of Representatives, the measure or measures shall then be in order for consideration only by the Senate at any time fixed by the President of the Senate. Any such bill or resolution shall be reported directly to the floor of the Senate and shall receive an up or down vote as reported from the House of Representatives without amendment.

(d) Any bills or resolutions considered as provided for in this Code section shall be read three times on three separate days in each house and shall be considered in compliance with all other requirements of the Constitution.

(e) The rules of the Senate and the House of Representatives for the 2016 legislative session may, as adopted or as amended, contain such provisions as may be necessary or appropriate to comply with the legislative process specified by this Code section.

28-12-3.

This chapter shall stand repealed by operation of law on July 1, 2016."

PART II

SECTION 2-1.

Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries, is amended by adding a new Code section to read as follows:

"32-5-27.1.

(a) In addition to the requirements contained in Code Section 32-5-27, the department shall annually prepare and submit to the General Assembly, for approval by the Senate Transportation Committee and the House Committee on Transportation, a ten-year strategic plan that outlines the use of department resources for the upcoming fiscal years.

(b) The Senate Transportation Committee and the House Committee on Transportation shall approve the plan and may make recommendations to the Senate Appropriations Committee and the House Committee on Appropriations for their consideration in developing the budget.

(c) Such plan shall identify at least the following categories and establish a target percentage of resources to be expended and the respective fund sources in each of the following areas:

(1) Construction of new highway projects;

(2) Maintenance of existing infrastructure;

(3) Bridge repairs and replacement;

(4) Safety enhancements; and

(5) Administrative expenses.

(d) Priority shall be given to expenditure of available resources for maintenance, expansion, and improvement of highway infrastructure in the areas of this state most impacted by traffic congestion and to areas of this state in need of highway infrastructure to aid in attracting economic development to the area.

(e) Such plan shall also bring forward all efficiencies found within the bureaucracy of the Department and how those funds have been redirected to road construction.″

PART III

SECTION 3-1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising paragraph (7) of subsection (l) of Code Section 40-2-86.1, relating to certain special license plates, as follows:

″(7)(A) A special license plate to be issued for alternative fueled vehicles, which license plate shall be similar in design to the license plate issued to all other residents of ~~the~~ this state except that the commissioner shall place a distinctive logo or emblem on the license plate which shall distinguish the vehicle as an alternative fueled vehicle eligible to travel in travel lanes designated for such vehicles under paragraph (4) of subsection (a) of Code Section 32-9-4. The words 'alternative fueled vehicle' shall be imprinted on such special license plate in lieu of the county name decal. The funds raised by the sale of this license plate shall be deposited in the general fund.

(B) As used in this paragraph, the term:

(i) 'Alternative fuel' means ~~methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more or such other percentage, but not less than 70 percent, as determined by the United States secretary of energy, by rule as it existed on~~

~~January 1, 1997, to provide for requirements relating to cold start, safety, or vehicle functions, by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal derived liquid fuels; fuels other than alcohol derived from biological materials; electricity including electricity from solar energy; and any other fuel the United States secretary of energy determined by rule as it existed on January 1, 1997, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits~~ electricity, natural gas, and propane.

(ii) 'Alternative fueled vehicle' means~~: (I) Any~~ any vehicle fueled solely by alternative fuel as defined in division (i) of this subparagraph, bi-fuel, or dual fuel~~; or~~

~~(II) A hybrid vehicle, which means a motor vehicle which draws propulsion energy from onboard sources of stored energy which include an internal combustion or heat engine using combustible fuel and a rechargeable energy storage system; and, in the case of a passenger automobile or light truck, means for any 2000 and later model, a vehicle which has received a certificate of conformity under the Clean Air Act, 42 U.S.C. Section 7401, et seq., and meets or exceeds the equivalent qualifying California low-emission vehicle standard under Section 243(e)(2) of the Clean Air Act, 42 U.S.C. Section 7583(c)(2), for that make and model year or, for any 2004 and later model, a vehicle which has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the administrator of the Environmental Protection Agency under Section 202(i) of the Clean Air Act, 42 U.S.C. Section 7521(i), for that make and model year vehicle and which achieves a composite label fuel economy greater than or equal to 1.5 times the Model Year 2002 EPA composite class average for the same vehicle class and which is made by a manufacturer~~.

(C) Pursuant to paragraph (19) of subsection (a) of Code Section 40-2-151, the applicant for a special license plate for any alternative fueled vehicle shall provide proof that he or she has paid the registration fee prescribed therein prior to the issuance of any special license plate under this paragraph.″

SECTION 3-2.

Said title is further amended by adding a new paragraph to subsection (a) of Code Section 40-2-151, relating to the annual license fees for the operation of vehicles, to read as follows:

″(19)(A)(i) Upon registration of an alternative fueled vehicle not operated for commercial purposes 200.00

(ii) Upon registration of an alternative fueled vehicle operated for commercial purposes 300.00

(B)(i) As used in this paragraph, the term 'alternative fueled vehicle' shall have the same meaning as in division (l)(7)(B)(ii) of Code Section 40-2-86.1; provided, however, that the fees in this paragraph shall not be assessed on vehicles which operate primarily on compressed natural gas, liquefied natural gas, or liquefied petroleum gas.

(ii) The fees in this paragraph shall be in addition to any other fee imposed on the vehicle by this Code section.

(iii) The fees in this paragraph shall be automatically adjusted on an annual basis by multiplying the percentage of increase or decrease in fuel efficiency from the previous year as measured by using the average of combined miles per gallon published in the United States Department of Energy Fuel Economy Guide against the current fee, and the resulting increase or decrease shall be added or subtracted from the fee. This preliminary fee adjustment shall then be multiplied by the increase or decrease in the Consumer Price Index percentage for the applicable year, and the result will be added or subtracted from the preliminary fee to produce the fee for the year. The first adjustment shall be calculated and implemented on July 1, 2016. The Consumer Price Index shall no longer be used after July 1, 2018.″

SECTION 3-3.

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

″40-2-151.1.

(a) As used in this Code section, the term 'transportation purposes' means and includes roads, bridges, public transit, rails, airports, buses, seaports, including without limitation road, street, and bridge purposes pursuant to paragraph (1) of subsection (b) of Code Section 48-8-121, and all accompanying infrastructure and services necessary to provide access to these transportation facilities, including general obligation debt and other multiyear obligations issued to finance such purposes.

(b) In conjunction with the payment of fees for the licensing of the operation of vehicles pursuant to Code Section 40-2-151, certain heavy vehicles registered in Georgia shall pay a highway impact fee. The annual fees shall be as follows for each such vehicle registered:

(1) 15,500 lbs. up to 26,000 lbs. . . . . $ 50.00

(2) Greater than 26,001 lbs. 100.00

(c) It is the intention of the General Assembly, subject to appropriations, that the fees collected pursuant to subsection (b) of this Code section shall be made available and used exclusively for transportation purposes in this state.

(d) If the amount collected under this Code section is ever not appropriated for a fiscal year as provided by subsection (c) of this Code section, as determined jointly by the House

Budget and Research Office and the Senate Budget and Evaluation Office, then the amount collected shall be reduced by 50 percent. Upon the conclusion of a second fiscal year in which an amount is not so appropriated, this Code section shall stand repealed and reserved, and such fees shall cease to be collected, on the date the appropriations Act for such fiscal year becomes effective. Such budget offices shall certify any such lack of appropriation to the Code Revision Commission for purposes of updating the Code in accordance with this subsection.″

PART IV

SECTION 4-1.

Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor, is amended by revising Code Section 45-12-22, relating to the Governor's authority to suspend the collection of taxes, as follows:

″45-12-22.

(a) Except as provided in subsection (b) of this Code section, the ~~The~~ Governor may suspend the collection of taxes, or any part thereof, due the state until the meeting of the next General Assembly but no longer; but he or she shall not otherwise interfere with the collection of taxes.

(b) Unless there has been a state of emergency declaration by the Governor, the Governor shall not suspend or modify in any manner the collection of any rate of state motor fuel under Code Section 48-9-3 as it applies to sales of motor fuel and aviation gasoline as such terms are defined in Code Section 48-9-2. Any suspension or modification of any rate of state motor fuel taxes under this subsection by the Governor shall be effective only until the next meeting of the General Assembly which must ratify such suspension or modification by a two-thirds' vote of both chambers. In the event the General Assembly fails to ratify the Governor's actions, state motor fuel taxes under this subsection shall be collected at the rate specified absent such suspension or modification and any amounts unpaid due to such suspension or modification shall be collected using such rate.″

PART V

SECTION 5-1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising subsection (b) of Code Section 48-7-40.16, relating to state income tax credits for low-emission vehicles, as follows:

"(b)(1) A tax credit is allowed against the tax imposed under this article to a taxpayer for the purchase or lease of a new low-emission vehicle or new zero emission vehicle that is registered in the State of Georgia. The amount of the credit shall be:

~~(1)~~(A) For any new low-emission vehicle, 10 percent of the cost of such vehicle or $2,500.00, whichever is less; and

~~(2)~~(B) For any new zero emission vehicle, 20 percent of the cost of such vehicle or $5,000.00, whichever is less.

(2) For any new low-emission vehicle or new zero emission vehicle purchased or leased on or after July 1, 2015, the amount of the credit shall be $0.00."

SECTION 5-2.

Said title is further amended by revising paragraphs (23) and (24) of Code Section 48-8-2, relating to definitions regarding state sales and use taxes, as follows:

"(23) '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~~ as compiled by the Energy Information Agency of the United States Department of Energy, the Oil Pricing Information Service, or a similar reliable published index less taxes imposed under Code Section 48-9-3 and all local sales and use or excise taxes levied on motor fuel. 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.

(24) ~~'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~~ Reserved."

SECTION 5-3.

Said title is further amended by revising paragraph (33.1) of Code Section 48-8-3, relating to exemptions from state sales and use taxes, as follows:

"(33.1)(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) and (C) of this paragraph.

(B)~~(i) For the period of time beginning July 1, 2011, and ending June 30, 2012, the sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt from state sales and use tax until the aggregate state sales and use tax liability of the taxpayer during such period with respect to jet fuel exceeds $20 million, computed as if the exemption provided in this division was not in effect during such period. Thereafter during such period, the exemption provided by this division shall not apply to the sale or use of jet fuel to or by the qualifying airline. For purposes of this division, the terms 'qualifying airline' and 'qualifying airport' shall have the same meanings as those terms were defined under the prior provisions of this paragraph as it existed immediately prior to July 1, 2012.~~

~~(ii)~~ For the period of time beginning July 1, 2012, <u>and ending on June 30, 2015,</u> the sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt from 1 percent of the 4 percent state sales and use tax.

(C) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt at all times from the sales or use tax levied and imposed as authorized pursuant to Part 1 of Article 3 of this chapter. As used in this subparagraph, the term 'qualifying airport' means any airport in this state that has had more than 750,000 takeoffs and landings during a calendar year, and the term 'qualifying airline' shall have the same meaning as set forth in subparagraph (E) of this paragraph.

(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 any time in any area consisting of less than the entire state, however authorized, <u>not to exceed the rate at which such taxes were levied as of January 1, 2014,</u> 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 division (ii)~~ of subparagraph (B) of this paragraph and paragraph (2) of subsection (d) of Code Section 48-8-241, 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 division (ii)~~ of subparagraph (B) of this paragraph and paragraph (2) of subsection (d) of Code Section 48-8-241, the term 'qualifying airport' means a certificated air carrier airport in Georgia.

(G) On or after July 1, 2017, revenue derived from the levy of sales and use taxes on jet fuel shall be used for a state aviation program or airport related purposes to the extent required to comply with 49 U.S.C. Sections 47107(b) and 47113. Any portion of such revenue so derived which is in excess of the amount required for purposes of such compliance with federal law may be appropriated by the General Assembly for other purposes.

~~(G)~~(H) The commissioner shall adopt rules and regulations to carry out the provisions of this paragraph;"

SECTION 5-4.

Said title is further amended by revising subsections (a) and (b) of Code Section 48-8-3.1, relating to sales tax exemptions as applied to motor fuels, as follows:

"(a) Except as provided in subsection (b) of this Code section, sales of motor fuels as defined in paragraph (9) of Code Section 48-9-2 shall be exempt from the ~~first 3 percent of the~~ state sales and use taxes levied or imposed by this article ~~and shall be subject to the remaining 1 percent of the sales and use taxes levied or imposed by this article~~.

(b) Sales of motor fuel, other than gasoline, ~~which motor fuel other than gasoline is~~ purchased for purposes other than propelling motor vehicles on public highways as defined in Article 1 of Chapter 9 of this title shall be fully subject to the ~~4 percent~~ state sales and use taxes levied or imposed by this article unless otherwise specifically exempted by this article."

SECTION 5-5.

Said title is further amended by revising subsection (k) of Code Section 48-8-30, relating to the imposition, rate, and collection of state sales tax, as follows:

"(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~~ under Code Section 48-9-3."

SECTION 5-6.

Said title is further amended by revising paragraph (2) of subsection (b) of Code Section 48-8-49, relating to dealers' returns as gross proceeds of sales and purchases, as follows:

"(2) If the tax liability of a dealer in the preceding calendar year was greater than $60,000.00 excluding local sales taxes, the dealer shall file a return and remit to the commissioner not less than 50 percent of the estimated tax liability for the taxable period on or before the twentieth day of the period. The amount of the payment of the estimated tax liability shall be credited against the amount to be due on the return required under subsection (a) of this Code section. ~~This subsection shall not apply to any dealer whose primary business is the sale of motor fuels who is remitting prepaid state tax under paragraph (2) of subsection (b) of Code Section 48-9-14.~~"

SECTION 5-7.

Said title is further amended by revising paragraphs (2), (3), and (4) of subsection (b) of Code Section 48-8-50, relating to compensation of dealers for reporting and paying tax, as follows:

"(2) With respect to each certificate of registration number on such return, a deduction of one-half of 1 percent of that portion exceeding $3,000.00 of the combined total amount of all sales and use taxes reported due on such return for each location other than the taxes specified in paragraph (3) of this subsection; and

(3) With respect to each certificate of registration number on such return, a deduction of 3 percent of the combined total amount due of all sales and use taxes on motor fuel as defined under paragraph (9) of Code Section 48-9-2, which are imposed under any provision of this title, including, but not limited to, sales and use taxes on motor fuel imposed under any of the provisions described in subsection (f) of this Code section. ~~but not including Code Section 48-9-14; and~~

~~(4) A deduction with respect to Code Section 48-9-14, as defined in Code Section 48-8-2, shall be at the rate of one-half of 1 percent of the total amount due of the prepaid state tax reported due on such return, so long as the return and payment are timely, regardless of the classification of tax return upon which the remittance is made.~~"

SECTION 5-8.

Said title is further amended by revising Code Section 48-8-82, relating to authorization of counties and municipalities to impose a joint sales and use tax, as follows:

"48-8-82.

(a) 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 provided in subsection (b) of this

Code section. 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 in Code Section 48-8-2 and shall be applicable to the sale of food and food ingredients and alcoholic beverages only to the extent provided for in paragraph (57) of Code Section 48-8-3.

(b) On or after July 1, 2015, such joint sales and use tax levied on sales of motor fuels as defined in Code Section 48-9-2 shall be at the rate of 1 percent of the retail sales price of the motor fuel which is not more than $3.00 per gallon."

SECTION 5-9.

Said title is further amended by revising subsection (b) of Code Section 48-8-102, relating to the creation of special districts and use of proceeds of the homestead option sales and use tax, as follows:

"(b)(1) 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 provided in paragraph (2) of this subsection. 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 in Code Section 48-8-2 and shall be applicable to the sale of food and food ingredients and alcoholic beverages only to the extent provided for in paragraph (57) of Code Section 48-8-3.

(2) On or after July 1, 2015, such sales and use tax levied on sales of motor fuels as defined in Code Section 48-9-2 shall be at the rate of 1 percent of the retail sales price of the motor fuel which is not more than $3.00 per gallon."

SECTION 5-10.

Said title is further amended by revising subsection (c) of and by adding a new subsection to Code Section 48-8-110.1, relating to the authorization for a county special purpose local option sales tax, to read as follows:

"(c) ~~Any~~ Except as provided in subsection (d) of this Code section, 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 in Code Section 48-8-2 and shall be applicable to the sale of food and food ingredients and alcoholic beverages as provided for in Code Section 48-8-3.

(d) On or after July 1, 2015, such sales and use tax levied on sales of motor fuels as defined in Code Section 48-9-2 shall be at the rate of 1 percent of the retail sales price of the motor fuel which is not more than $3.00 per gallon.″

SECTION 5-11.

Said title is further amended by revising Code Section 48-8-141, relating to imposition of a sales tax for educational purposes, as follows:

″48-8-141.

(a) Except as otherwise expressly provided in Article VIII, Section VI, Paragraph IV of the Constitution of Georgia, the sales tax for educational purposes which may be levied by a board of education of a county school district or concurrently by the board of education of a county school district and the board of education of each independent school district located within such county shall be imposed and levied by such board or boards of education and collected by the commissioner on behalf of such board or boards of education in the same manner as provided for under Part 1 of this article and the provisions of Part 1 of this article in particular, but without limitation, the provisions regarding the authority of the commissioner to administer and collect this tax, retain the 1 percent administrative fee, and promulgate rules and regulations governing this tax shall apply equally to such board or boards of education. The report required pursuant to Code Section 48-8-122 shall be applicable; provided, however, that in addition to posting such report in a newspaper of general circulation as required by such Code section, such report may be posted on the searchable website provided for under Code Section 50-6-32.

(b) On or after July 1, 2015, such sales and use tax levied on sales of motor fuels as defined in Code Section 48-9-2 shall be at the rate of 1 percent of the retail sales price of the motor fuel which is not more than $3.00 per gallon.″

SECTION 5-12.

Said title is further amended by revising subsection (c) of and adding a new subsection to Code Section 48-8-201, relating to the intergovernmental agreement for the distribution of tax proceeds from the water and sewer projects sales tax, as follows:

″(c) In the event a tax imposed under this article is imposed only by the municipality:

(1) 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 article, except that a tax imposed under this article shall apply to:

(A) Sales of motor fuels as prepaid local tax as that term is defined in Code Section 48-8-2;

(B) The sale of food and food ingredients and alcoholic beverages as provided for in Code Section 48-8-3;

(C) The sale of natural or artificial gas used directly in the production of electricity which is subsequently sold, notwithstanding paragraph (70) of Code Section 48-8-3; and

(D) The furnishing for value to the public of any room or rooms, lodgings, or accommodations which is subject to taxation under Article 3 of Chapter 13 of this title; and

(2) A tax imposed under this article shall not apply to the sale of motor vehicles."

"(e) On or after July 1, 2015, such sales and use tax levied on sales of motor fuels as defined in Code Section 48-9-2 shall be at the rate of 1 percent of the retail sales price of the motor fuel which is not more than $3.00 per gallon."

SECTION 5-13.

Said title is further amended by revising Code Section 48-9-3, relating to an excise tax on motor fuel, as follows:

"48-9-3.

(a)(1) An excise tax is imposed at the rate of ~~7 1/2¢~~ 26¢ per gallon on distributors who sell or use motor fuel, other than diesel fuel, within this state. An excise tax is imposed at the rate of 29¢ per gallon on distributors who sell or use diesel fuel within this state. It is the intention of the General Assembly that the legal incidence of the tax be imposed upon the distributor.

(1.1)(A) Beginning on July 1, 2016, and annually thereafter, the amount of this excise tax per gallon on distributors shall be automatically adjusted on an annual basis in accordance with this paragraph.

(B) Using 2014 as a base year, the department shall determine the average miles per gallon of all new vehicles registered in this state pursuant to Code Section 48-5C-1 using the average of combined miles per gallon published in the United States Department of Energy Fuel Economy Guide. Beginning on July 1, 2016, and each year thereafter, the department shall calculate the average miles per gallon of all new vehicles registered in this state in the previous year. The excise tax rate shall be multiplied by the percentage increase or decrease in fuel efficiency from the previous

year, and the resulting increase or decrease shall be added to the excise tax rate to determine the preliminary excise tax rate.

(C) Once the preliminary excise tax rate is established, it shall be multiplied by the annual percentage of increase or decrease in the Consumer Price Index. The resulting calculation shall be added to the preliminary excise tax rate, and the result of such calculation shall be the new excise tax rate for motor fuels for the next calendar year. The Consumer Price Index shall no longer be used after July 1, 2018.

(2) In the event any motor fuels which are not commonly sold or measured by the gallon are used in any motor vehicles on the public highways of this state, the commissioner may assess, levy, and collect a tax upon such fuels, under such regulations as the commissioner may promulgate, in accordance with and measured by the nearest power potential equivalent to that of one gallon of regular grade gasoline. Any determination by the commissioner of the power potential equivalent of such motor fuels shall be prima-facie correct. Upon each such quantity of such fuels used upon the public highways of this state, a tax at the same rate per gallon imposed on motor fuel under paragraph (1) of this subsection shall be assessed and collected.

(3) No county, municipality, or other political subdivision of this state shall levy any fee, license, or other excise tax on a gallonage basis upon the sale, purchase, storage, receipt, distribution, use, consumption, or other disposition of motor fuel. Nothing contained in this article shall be construed to prevent a county, municipality, or other political subdivision of this state from levying license fees or taxes upon any business selling motor fuel.

(4)(A) For purposes of this subsection, and notwithstanding the provisions of paragraph (2) of this subsection and any provision contained in the National Bureau of Standards Handbook or any other national standard that may be adopted by law or regulation, the gallon equivalent of compressed natural gas shall be not less than 110,000 British thermal units and the gallon equivalent of liquefied natural gas shall not be less than 6.06 pounds.

(B) As used in this paragraph, the term:

(i) 'Compressed natural gas' means a mixture of hydrocarbon gases and vapors, consisting principally of methane in gaseous form, that has been compressed for use as a motor fuel.

(ii) 'Liquefied natural gas' means methane or natural gas in the form of a cryogenic or refrigerated liquid for use as a motor fuel.

(b) No tax is imposed by this article upon or with respect to the following sales by duly licensed distributors:

(1) Bulk sales to a duly licensed distributor;

(2) Sales of motor fuel for export from this state when exempted by any provisions of the Constitutions of the United States or this state;

(3) Sales of motor fuel to a licensed distributor for export from this state;

(4) Sales of motor fuel to the United States for the exclusive use of the United States when the motor fuel is purchased and paid for by the United States;

(5) Sales of aviation gasoline to a duly licensed aviation gasoline dealer, except for 1¢ per gallon of the tax imposed by paragraph (1) of subsection (a) of this Code section ~~and all of the tax imposed by Code Section 48-9-14~~;

(6) Bulk sales of compressed petroleum gas or special fuel to a duly licensed consumer distributor;

(7)(A) Sales of compressed petroleum gas or special fuel to a consumer who has no highway use of the fuel at the time of the sale and does not resell the fuel. Consumers of compressed petroleum gas or special fuel who have both highway and nonhighway use of the fuel and resellers of such fuel must be licensed as distributors in order for sales of the fuel to be tax exempt. Each type of motor fuel is to be considered separately under this exemption.

(B)(i) In instances where a sale of compressed petroleum gas has been made to an ultimate consumer who has both highway and nonhighway use of that type of motor fuel and no tax has been paid by the distributor on the sale, the consumer shall become licensed as a consumer distributor of that type of motor fuel. After the consumer is licensed as a consumer distributor and if it is demonstrated to the satisfaction of the commissioner that the motor fuel purchased prior to the licensee's becoming licensed as a consumer distributor was used for nonhighway purposes, such sales shall be exempt from the tax imposed by this article; provided, however, that, if at the time of demonstration the ultimate consumer does not have both highway and nonhighway use of such fuel but it can be demonstrated by the distributor to the satisfaction of the commissioner that the motor fuel was used for nonhighway purposes, the sales shall be exempt from the tax imposed by this article; and

(ii)(I) Any special fuel sold by a distributor to a purchaser who has a storage receptacle which has a connection to a withdrawal outlet that may be used for highway use, as defined in paragraph (8) of Code Section 48-9-2, is not exempt from the motor fuel and road taxes imposed by this article unless: (1) the purchaser is at the time of sale a valid licensed distributor of that type of motor fuel, or (2) an exemption certificate has been obtained from the purchaser on forms furnished by the Department of Revenue showing that the purchaser has no highway use of such fuels and is not a reseller of such fuels. Each exemption certificate shall be valid for a period of not more than three years and shall be kept by the distributor as one

of the records specified in Code Section 48-9-8. It shall be the responsibility of the purchaser to notify the distributor when the purchaser is no longer qualified for the nonhighway exemption. All applicable taxes must be charged the purchaser until the purchaser is granted a valid distributor's license for that type of motor fuel.

(II) Any such purchaser granted an exemption under subdivision (I) of this division who falsely claims the exemption or fails to rescind the purchaser's exemption certificate to the distributor in writing when he or she is no longer eligible for the exemption shall be deemed a distributor for purposes of taxation and is subject to all provisions of this article relating to distributors. This division in no way shall restrict the option of the purchaser to become licensed as a distributor. If the distributor sells special fuel to a purchaser who has a storage receptacle which has a connection to a withdrawal outlet that may be used for highway use, as defined in paragraph (8) of Code Section 48-9-2, and the purchaser is not a valid licensed distributor and has not executed a valid signed exemption certificate, the taxes imposed by this article are due from the distributor and not the purchaser on all sales of that type of fuel to that purchaser;

(8) Sales of fuel oils, compressed petroleum gas, or special fuel directly to an ultimate consumer to be used for heating purposes only. The delivery of fuel oils, compressed petroleum gas, or special fuel directly to an ultimate consumer to be used for heating purposes only shall be made directly into the storage receptacle of the heating unit of the consumer by the licensed distributor. To qualify for this exemption, sales must be delivered into storage receptacles that are not equipped with any secondary withdrawal outlets for the motor fuel;

(9) Sales of dyed fuel oils to a consumer for other than highway use as defined in paragraph (8) of Code Section 48-9-2;

(10)(A) During the period of July 1, 2012, through June 30, 2015, sales of motor fuel, as defined in paragraph (9) of Code Section 48-9-2, for public mass transit vehicles which are owned by public transportation systems which receive or are eligible to receive funds pursuant to 49 U.S.C. Sections 5307 and 5311 for which passenger fares are routinely charged and which vehicles are used exclusively for revenue generating purposes which motor fuel sales occur at bulk purchase facilities approved by the department.

(B) During the period of July 1, 2012, through June 30, 2015, sales of motor fuel, as defined in paragraph (9) of Code Section 48-9-2, for vehicles operated by a public campus transportation system, provided that such system has a policy which provides for free transfer of passengers from the public transportation system operated by the jurisdiction in which the campus is located; makes the general public aware of such free

transfer policy; and receives no state or federal funding to assist in the operation of such public campus transportation system and which motor fuel sales occur at bulk purchase facilities approved by the department.

(C) For purposes of this paragraph, the term 'vehicle' or 'vehicles' means buses, vans, minibuses, or other vehicles which have the capacity to transport seven or more passengers; or

(11) For the period of time beginning July 1, 2013, and ending June 30, 2015, sales of motor fuel to public school systems in this state for the exclusive use of the school system in operating school buses when the motor fuel is purchased and paid for by the school system.

(c) Fuel oils, compressed petroleum gas, or special fuel used by a duly licensed distributor for nonhighway purposes is exempt from the tax imposed by this article.

(d) No export from this state shall be recognized as being exempt from tax under paragraphs (2) and (3) of subsection (b) of this Code section unless the exporter informs the seller and the terminal operator of the intention to export and causes to be set out the minimum information specified in subsection (e) of Code Section 48-9-17 on the bill of lading or equivalent documentation under which the motor fuel is transported. In the event that the motor fuel is delivered to any point other than that which is set out on the bill of lading or equivalent documentation, the legal incidence of the tax shall continue to be imposed exclusively upon the exporter who caused the export documentation to be issued and no exemption shall be recognized until suitable proof of exportation has been provided to the commissioner."

SECTION 5-14.

Said title is further amended by repealing in its entirety Code Section 48-9-14, relating to the second motor fuel tax, and designating said Code section as reserved.

SECTION 5-15.

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

"48-13-50.3.

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

(1) 'Extended stay' means providing lodging for the public for longer than 30 consecutive days to the same customer.

(2) 'Innkeeper' means any person who is subject to taxation under this article for the furnishing for value to the public any rooms, lodgings, or accommodations.

(3) 'Transportation purposes' means and includes roads, bridges, public transit, rails, airports, buses, seaports, including without limitation road, street, and bridge purposes

pursuant to paragraph (1) of subsection (b) of Code Section 48-8-121, and all accompanying infrastructure and services necessary to provide access to these transportation facilities, including general obligation debt and other multiyear obligations issued to finance such purposes.

(b) On or after July 1, 2015, each innkeeper in this state shall charge a $5.00 per night fee to the customer, unless it is an extended stay rental, for each calendar day a room, lodging, or accommodation is rented or leased. The innkeeper shall collect the fee at the time the customer pays for the rental or lease of such room, lodging, or accommodation. The innkeeper collecting the fee shall remit the fee on a monthly basis to the department.

(c) The commissioner shall promulgate and make available forms for the use of innkeepers to assist in compliance with this Code section. The commissioner shall promulgate rules and regulations as necessary to implement the provisions of this Code section.

(d) It is the intention of the General Assembly, subject to appropriations, that the fees collected pursuant to subsection (b) of this Code section shall be made available and used exclusively for transportation purposes in this state.

(e) If the amount collected under this Code section is ever not appropriated for a fiscal year as provided by subsection (d) of this Code section, as determined jointly by the House Budget and Research Office and the Senate Budget and Evaluation Office, then the amount collected shall be reduced by 50 percent. Upon the conclusion of a second fiscal year in which an amount is not so appropriated, this Code section shall stand repealed and reserved, and such fees shall cease to be collected, on the date the appropriations Act for such fiscal year becomes effective. Such budget offices shall certify any such lack of appropriation to the Code Revision Commission for purposes of updating the Code in accordance with this subsection.″

PART VI

SECTION 6-1.

Part 3 of Article 2 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated, the "Georgia Transportation Infrastructure Bank Act," is amended by revising subsection (b) of Code Section 32-10-127, relating to loans and other financial assistance and the determination of eligible projects, as follows:

″(b)(1) The board shall determine which projects are eligible projects and then select from among the eligible projects qualified projects. When determining eligibility, the board shall make every effort to balance any loans or other financial assistance among all regions of this state.

(2) Preference for loans may be given to eligible projects ~~which have local financial support~~ in tier 1 and tier 2 counties, as defined in Code Section 48-7-40 and by the Department of Community Affairs.

(3) Preference for grants and other financial assistance may be given to eligible projects which have local financial support.″

PART VII

SECTION 7-1.

Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising subsection (d) of and adding new subsections to Code Section 48-8-241, relating to the creation of special districts and the tax rate for purposes of a transportation sales and use tax, as follows:

″(d) ~~Any~~ Except as otherwise provided in subsection (e) of this Code section, any tax imposed under this article shall be at the rate of 1 percent. Except as to rate, a tax imposed under this article 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 article, except that a tax imposed under this article shall not apply to:

(1) The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road farm or agricultural equipment, or locomotives;

(2) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport;

(3) The sale or use of fuel that is used for propulsion of motor vehicles on the public highways. For purposes of this paragraph, a motor vehicle means a self-propelled vehicle designed for operation or required to be licensed for operation upon the public highways;

(4) The sale or use of energy used in the manufacturing or processing of tangible goods primarily for resale; or

(5) For motor fuel as defined under paragraph (9) of Code Section 48-9-2 for public mass transit.

The tax imposed pursuant to this article shall only be levied on the first $5,000.00 of any transaction involving the sale or lease of a motor vehicle. The tax imposed pursuant to this article shall be subject to any sales and use tax exemption which is otherwise imposed by law; provided, however, that the tax levied by this article shall be applicable to the sale of food and food ingredients as provided for in paragraph (57) of Code Section 48-8-3.

(e) Any tax imposed under this article on or after July 1, 2015, may be at a rate of up to 1 percent but shall not be more than 1 percent. Any rate less than 1 percent shall be in an

increment of .05 percent. This subsection shall not apply to taxes under this article imposed or to be imposed under resolutions and ordinances adopted prior to July 1, 2015.

(f) Any tax imposed under this article on or after July 1, 2015, shall be required to expend at least 30 percent of the estimated revenue on projects included in the state-wide strategic transportation plan as defined in paragraph (6) of subsection (a) of Code Section 32-2-22."

SECTION 7-2.

Said chapter is further amended by revising paragraph (12) of Code Section 48-8-242, relating to definitions relative to Special District Transportation Sales and Use Tax, as follows:

"(12) ~~'Special Regional Transportation Funding Election Act' means an Act specifically and exclusively enacted for the purpose of ordering that a referendum be held for the reimposition of the special district transportation sales and use tax within the region that includes the districts, in their entirety or any portion thereof, of the members from a local legislative delegation in the General Assembly. A majority of the signatures of the legislative delegation for a majority of the counties within the region shall be required for the bill to be placed upon the local calendar of each chamber. This method shall be exclusively used for this purpose and no other bill shall be placed or voted upon on the local calendar utilizing this method of qualification for placement thereon. This Act shall be treated procedurally by the General Assembly as a local Act and all counties within the region shall receive the legal notice requirements of a local Act.~~ Reserved."

SECTION 7-3.

Said chapter is further amended by revising subsection (c) of Code Section 48-8-245, relating to the collection and cessation of special district transportation sales and use tax, as follows:

"(c)(1) No more than a single ~~1 percent~~ tax under this article may be collected at any time within a special district.

(2) Upon the ~~enactment by the General Assembly of a Special Regional Transportation Funding Election Act and the~~ adoption of resolutions by the governing bodies of a majority of the counties within a special district in which a tax authorized by this article is in effect, an election may be held for the reimposition of the tax while the tax is in effect. Proceedings for the development of an investment list and for the reimposition of a tax shall be in the same manner as provided for in Code ~~Section~~ Sections 48-8-241 and 48-8-243.

(3) Following the expiration of the special district transportation sales and use tax under this article, or following a special election in which voters in a special district rejected the imposition of the tax, upon the ~~passage by the General Assembly of a Special Regional~~

~~Transportation Funding Election Act and the~~ adoption of resolutions by the governing bodies of a majority of counties within a special district, an election may be held for the imposition of a tax under this article in the same manner as provided in this article for the initial imposition of such tax. ~~Such subsequent election shall be held on the date of a state-wide general primary.~~ The election superintendents shall issue the call and conduct the election in the manner authorized by general law. The development of the investment list for such special district shall follow the dates established in Code Section 48-8-243 with the years adjusted appropriately, and such schedule shall be posted on a website developed by the state revenue commissioner to be used exclusively for matters related to the special district transportation sales and use tax within 30 days of the later of the state revenue commissioner's receipt of notice from the final county governing body required to adopt a resolution ~~or of the passage of the Special Regional Transportation Funding Election Act by the General Assembly~~.″

SECTION 7-4.

Said chapter is further amended in subsection (a) of Code Section 48-8-6, relating to the ceiling on local sales and use taxes, by revising paragraphs (4) and (5) and adding a new paragraph to read as follows:

″(4) A sales and use tax levied under Article 4 of this chapter; ~~and~~

(5) A sales and use tax levied under Article 5 of this chapter~~.~~; and

(6) A sales and use tax levied under Article 5A of this chapter.″

SECTION 7-5.

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

″ARTICLE 5A

48-8-260.

As used in this article, the term:

(1) 'Dealer' means a dealer as defined in paragraph (8) of Code Section 48-8-2.

(2) 'District' means a special district created pursuant to subsection (a) of Code Section 48-8-261.

(3) 'Intergovernmental agreement' means a contract entered into pursuant to Article IX, Section III, Paragraph I of the Constitution.

(4) 'Levy' means the collection within a special district of the tax authorized pursuant to this article.

(5) 'Mass transportation' means any mode of transportation serving the general public which is appropriate to transport people by highways or rail.

(6) 'Mass transportation regional system participant' means any county within a special district created pursuant to Article 5 of this chapter wherein mass transportation service is provided within the district, to the district, or from the district by a multicounty regional transportation authority created by an Act of the General Assembly, including but not limited to the Georgia Regional Transportation Authority or the Metropolitan Atlanta Rapid Transit Authority.

(7) 'Qualified municipality' means a qualified municipality as defined in paragraph (4) of Code Section 48-8-110 situated wholly or partly within a district.

(8) 'Transportation purposes' means and includes roads, bridges, public transit, rails, airports, buses, seaports, including without limitation road, street, and bridge purposes pursuant to paragraph (1) of subsection (b) of Code Section 48-8-121, and all accompanying infrastructure and services necessary to provide access to these transportation facilities, including general obligation debt and other multiyear obligations issued to finance such purposes.

48-8-261.

(a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution of this state, 159 special districts are created within this state. The geographical boundary of each county shall correspond with and shall be conterminous with the geographical boundary of the 159 districts created.

(b) On or after July 1, 2015, any county:

(1) That is not located within a special district levying a special sales and use tax pursuant to Article 5 of this chapter;

(2) That is a mass transportation regional system participant; and

(3) In which a tax is currently being levied and collected pursuant to:

(A) Part 1 of Article 3 of this chapter;

(B) A local constitutional amendment for purposes of a metropolitan area system of public transportation set out at Ga. L. 1964, p. 1008, and the laws enacted pursuant to such local constitutional amendment; or

(C) Code Section 48-8-96

may, by following the procedures required by this article, impose for a limited period of time within the special district under this article a transportation special purpose local option sales tax, the proceeds of which shall be used only for transportation purposes.

(c) On or after July 1, 2017, any county:

(1) That is not located within a special district levying a special sales and use tax pursuant to Article 5 of this chapter; and

(2) In which a tax is currently being levied and collected pursuant to:

(A) Part 1 of Article 3 of this chapter;

(B) A local constitutional amendment for purposes of a metropolitan area system of public transportation set out at Ga. L. 1964, p. 1008, and the laws enacted pursuant to such local constitutional amendment; or

(C) Code Section 48-8-96

may, by following the procedures required by this article, impose for a limited period of time within the special district under this article a transportation special purpose local option sales tax, the proceeds of which shall be used only for transportation purposes.

48-8-262.

(a)(1) Prior to the issuance of the call for the referendum required by Code Section 48-8-263, any county that desires to levy a tax under this article shall deliver or mail a written notice to the mayor or chief elected official in each qualified municipality located within the district. Such notice shall contain the date, time, place, and purpose of a meeting at which the governing authorities of the county and of each qualified municipality are to meet to discuss possible projects for inclusion in the referendum. The notice shall be delivered or mailed at least ten days prior to the date of the meeting. The meeting shall be held at least 30 days prior to the issuance of the call for the referendum.

(2) When a qualified municipality or combination of qualified municipalities within the special district whose population within the special district is 90 percent or more of the aggregate population of all qualified municipalities within the special district desires to levy a tax under this article, such qualified municipality or combination of qualified municipalities may deliver or mail written notice to the chief elected official of the governing authority of the county located within the special district calling for a meeting to discuss projects for inclusion in the referendum and the rate of levy of the tax. Such notice shall contain the date, time, place, and purpose of the meeting and shall be delivered or mailed at least ten days prior to the date of the meeting. The meeting shall be held at least 30 days prior to the issuance of the call for a referendum. If the county and all qualified municipalities within the special district do not enter into an intergovernmental agreement meeting the requirements of subsection (b) of this Code section within 30 days after the meeting, the qualified municipality or combination of qualified municipalities within the special district whose population within the special district is 90 percent or more of the aggregate population of all qualified municipalities

within the special district may issue the call for a referendum on the levy of a tax under this article.

(b)(1) Following the meeting required by subsection (a) of this Code section and prior to any tax being imposed under this article, the county and all qualified municipalities therein shall execute an intergovernmental agreement memorializing their agreement to the levy of a tax and the rate of such tax.

(2) At a minimum, the intergovernmental agreement authorized by paragraph (1) of this subsection shall include the following:

(A) A list of the projects and purposes qualifying as transportation purposes proposed to be funded from the levy, including an expenditure of at least 30 percent of the estimated revenue from the tax on projects included in the state-wide strategic transportation plan as defined in paragraph (6) of subsection (a) of Code Section 32-2-22;

(B) The estimated or projected dollar amounts allocated for each transportation purpose from proceeds from the levy;

(C) The procedures for distributing proceeds from the levy to qualified municipalities;

(D) A schedule for distributing proceeds from the levy to qualified municipalities which shall include the priority or order in which transportation purposes will be fully or partially funded;

(E) A provision that all transportation purposes included in the agreement shall be funded from proceeds from the levy except as otherwise agreed;

(F) A provision that proceeds from the levy shall be maintained in separate accounts and utilized exclusively for the specified purposes;

(G) Record-keeping and audit procedures necessary to carry out the purposes of this article; and

(H) Such other provisions as the county and qualified municipalities choose to address.

(c)(1) If an intergovernmental agreement is entered into by the county and all qualified municipalities, the rate of the tax may be up to 1 percent.

(2) If an intergovernmental agreement is not entered into by the county and all qualified municipalities, the maximum rate of the tax shall not exceed .75 percent and shall be determined by the governing authority of the county.

(d)(1) As soon as practicable after the meeting between the governing authorities of the county and qualified municipalities and the execution of an intergovernmental agreement, if applicable, the governing authority of the county may by a majority vote on a resolution offered for such purpose submit the list of transportation purposes and the question of whether the levy should be approved to electors of the district in the next scheduled election and shall notify the county election superintendent within the district

by forwarding to the superintendent a copy of such resolution calling for the imposition of the levy. Such list, or a digest thereof, shall be available during regular business hours in the office of the county clerk.

(2) The resolution authorized by paragraph (1) of this subsection shall describe:

(A) The specific transportation purposes to be funded;

(B) The approximate cost of such transportation purposes, which shall also be the maximum amount of net proceeds to be raised by the levy; and

(C) The maximum period of time, to be stated in calendar years, for which the levy may be levied and the rate thereof. The maximum period of time shall not exceed five years.

48-8-263.

(a)(1) The ballot submitting the question of the imposition of the levy to the voters within the district shall have written or printed thereon the following:

'( ) YES Shall a special ____ percent sales and use tax be imposed in the district consisting of _____ County for a period of time not to exceed _____ ( ) NO and for the raising of not more than an estimated amount of $_____ for transportation purposes?'

(2) If debt is to be issued pursuant to an intergovernmental agreement, the ballot shall also have written or printed thereon, following the language specified by paragraph (1) of this subsection, the following:

'If imposition of the tax is approved by the voters, such vote shall also constitute approval of the issuance of general obligation debt of _____ County in the principal amount of $_____ for the above purpose.'

(b) The election superintendent shall issue the call and conduct the election in the manner authorized by general law. The superintendent shall canvass the returns, declare the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be paid from county funds. All persons desiring to vote in favor of imposing the levy shall vote 'Yes,' and all persons opposed to imposing the levy shall vote 'No.' If more than one-half of the votes cast throughout the entire district are in favor of imposing the levy, then the levy shall be imposed as provided in this article.

(c) Where such question is not approved by the voters, the county may resubmit such question from time to time upon compliance with the requirements of this article.

(d)(1) If the intergovernmental agreement and proposal include the authority to issue general obligation debt and if more than one-half of the votes cast are in favor of the proposal, then the authority to issue such debt in accordance with Article IX, Section V, Paragraph I of the Constitution is given to the proper officers of the county; otherwise,

such debt shall not be issued. If the authority to issue such debt is so approved by the voters, then such debt may be issued without further approval by the voters.

(2) If the issuance of general obligation debt is included and approved as provided in this Code section, then the governing authority of the county may incur such debt either through the issuance and validation of general obligation bonds or through the execution of a promissory note or notes or other instrument or instruments. If such debt is incurred through the issuance of general obligation bonds, such bonds and their issuance and validation shall be subject to Articles 1 and 2 of Chapter 82 of Title 36 except as specifically provided otherwise in this article. If such debt is incurred through the execution of a promissory note or notes or other instrument or instruments, no validation proceedings shall be necessary, and such debt shall be subject to Code Sections 36-80-10 through 36-80-14 except as specifically provided otherwise in this article. In either event, such general obligation debt shall be payable first from the separate account in which are placed the proceeds received by the county from the levy. Such general obligation debt shall, however, constitute a pledge of the full faith, credit, and taxing power of the county; and any liability on such debt which is not satisfied from the proceeds of the levy shall be satisfied from the general funds of the county.

48-8-264.

(a) If the imposition of the levy is approved at the election, the tax shall be imposed on the first day of the next succeeding calendar quarter which begins more than 80 days after the date of the election at which the levy was approved by the voters. With respect to services which are regularly billed on a monthly basis, however, the resolution shall become effective with respect to and the levy shall apply to services billed on or after the effective date specified in the previous sentence.

(b) The levy shall cease to be imposed on the earliest of the following dates:

(1) If the resolution calling for the imposition of the tax provided for the issuance of general obligation debt and such debt is the subject of validation proceedings, as of the end of the first calendar quarter ending more than 80 days after the date on which a court of competent jurisdiction enters a final order denying validation of such debt;

(2) On the final day of the maximum period of time specified for the imposition of the levy; or

(3) As of the end of the calendar quarter during which the commissioner determines that the levy will have raised revenues sufficient to provide to the district net proceeds equal to or greater than the amount specified as the maximum amount of net proceeds to be raised by the levy.

(c)(1) At any time, no more than a single tax under this article shall be imposed within a district. Any tax imposed under this article may be at a rate of up to 1 percent but shall not be more than 1 percent. Any rate less than 1 percent shall be in an increment of .05 percent.

(2) The governing authority of the county in which a levy is in effect under this article may, upon approval of all qualified municipalities, while the levy is in effect, adopt resolutions calling for the reimposition of the levy upon the termination of the levy then in effect; and an election may be held at the next regularly scheduled general election for this purpose while the levy is in effect. Proceedings for the reimposition of a levy shall be in the same manner as proceedings for the initial imposition of the levy, but the newly authorized levy shall not be imposed until the expiration of the levy then in effect.

(3) Following the expiration of a levy under this article, the county may initiate proceedings for the reimposition of a levy under this article in the same manner as provided in this article for initial imposition of such levy.

48-8-265.

A tax levied pursuant to this article shall be exclusively administered and collected by the commissioner for the use and benefit of the county and qualified municipalities within the 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; 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 on behalf of the 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.

48-8-266.

Each sales tax return remitting taxes collected under this article shall separately identify the location of each retail establishment at which any of the 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 taxes imposed by this article are collected and distributed according to situs of sale.

48-8-267.

(a) The proceeds of the 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; and

(2) Except for the percentage provided in paragraph (1) of this Code section, the remaining proceeds of the tax shall be distributed:

(A) Pursuant to the terms of the intergovernmental agreement, if applicable; or

(B) If no intergovernmental agreement has been entered into, in accordance with subsection (b) of this Code section.

(b) In the event an intergovernmental agreement has not been entered into, distribution of the proceeds shall be as follows:

(1) The state auditor shall determine the most recent three fiscal years for which an audit under Code Section 36-81-7 has or should have been made or for which other equivalent, reliable information is available for the county and all qualified municipalities; and

(2) Utilizing the audit information under paragraph (1) of this subsection, the county and each qualified municipality shall receive a proportional amount of proceeds of the tax based upon the amount of expenditures made for transportation in the fiscal year. The proportional amount for the county and each qualified municipality shall be determined by dividing the average expended on transportation during the most recent three fiscal years by the county or qualified municipality by the aggregate average expended on transportation by the county and all qualified municipalities in the district during the most recent three fiscal years. Amounts expended on transportation include transportation maintenance and operation costs and shall correspond with classifications and subclassifications specified in section 4200, including noncapital expenditures in sections 4210-4270, of the uniform chart of accounts in subsection (e) of Code Section 36-81-3 and shall be reported in the local government audit. Total general fund expenditures by the local government within these categories shall be specified in the footnotes of the audited financial statement. If such transportation expenditures include maintenance and operation costs to support local government airport and transit operations, reported in function 7561 and 7563 of the uniform chart, the general fund costs for those functions shall be included in the footnotes of the local government's audited financial statement.

48-8-268.

(a) The levy shall not be subject to any allocation or balancing of state and federal funds provided for by general law, nor may such proceeds be considered or taken into account in any such allocation or balancing.

(b) The approval of the levy of the tax under this article shall not in any way diminish the percentage of state or federal funds allocated to any of the local governments within the special district levying the tax under the provisions of Code Section 32-5-27. The amount of state or federal funds expended in the county or any municipality within the special district shall not be decreased or diverted due to the use of proceeds from the tax levied under this article for transportation purposes that have a high priority in the state-wide strategic transportation plan.

48-8-269.

(a) Except as to rate, a tax imposed under this article 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 article, except that a tax imposed under this article shall not apply to:

(1) The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road farm or agricultural equipment, or locomotives;

(2) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport;

(3) The sale or use of fuel that is used for propulsion of motor vehicles on the public highways;

(4) The sale or use of energy used in the manufacturing or processing of tangible goods primarily for resale;

(5) The sale or use of motor fuel as defined under paragraph (9) of Code Section 48-9-2 for public mass transit; or

(6) The purchase or lease of any motor vehicle pursuant to Code Section 48-5C-1.

(b) Except as otherwise specifically provided in this article, the tax imposed pursuant to this article shall be subject to any sales and use tax exemption which is otherwise imposed by law; provided, however, that the tax levied by this article shall be applicable to the sale of food and food ingredients as provided for in paragraph (57) of Code Section 48-8-3.

48-8-269.1.

Where a local sales or use tax has been paid with respect to tangible personal property by the purchaser either in another local tax jurisdiction within this state or in a tax jurisdiction outside this state, the tax may be credited against the tax authorized to be imposed by this article upon the same property. If the amount of sales or use tax so paid is less than the

amount of the levy due under this article, the purchaser shall pay an amount equal to the difference between the amount paid in the other tax jurisdiction and the amount due under this article. The commissioner may require such proof of payment in another local tax jurisdiction as he or she deems necessary and proper. No credit shall be granted, however, against the levy for tax paid in another jurisdiction if the tax paid in such other jurisdiction is used to obtain a credit against any other local sales and use tax levied in the county or in a special district which includes the county.

48-8-269.2.

No levy shall be imposed upon the sale of tangible personal property which is ordered by and delivered to the purchaser at a point outside the geographical area of the county in which the levy is imposed regardless of the point at which title passes, if the delivery is made by the seller's vehicle, United States mail, or common carrier or by private or contract carrier.

48-8-269.3.

The commissioner shall have the power and authority to promulgate such rules and regulations as shall be necessary for the effective and efficient administration and enforcement of the collection of the levy.

48-8-269.4.

Except as provided in Code Section 48-8-6, the tax authorized under this article shall be in addition to any other local sales and use tax. Except as otherwise provided in this article and except as provided in Code Section 48-8-6, the imposition of any other local sales and use tax within a county or qualified municipality within a special district shall not affect the authority of a county to impose the tax authorized under this article, and provided that a county is not currently collecting a levy under Article 5 of this chapter, the imposition of a tax under this article shall not affect the imposition of any otherwise authorized local sales and use tax within the special district.

48-8-269.5.

(a)(1) The proceeds received from the levy shall be used by the county and qualified municipalities within the district exclusively for the transportation purposes specified in the resolution calling for imposition of the levy. Such proceeds shall be kept in a separate account from other funds of any county and qualified municipality receiving proceeds of the levy and shall not in any manner be commingled with other funds of any county or qualified municipality prior to the expenditure.

(2) The governing authority of each county and the governing authority of each qualified municipality receiving any proceeds from the tax under this article shall maintain a record of each and every purpose for which the proceeds of the tax are used. A schedule shall be included in each annual audit which shows for each purpose in the resolution calling for imposition of the levy the original estimated cost, the current estimated cost if it is not the original estimated cost, amounts expended in prior years, and amounts expended in the current year. The auditor shall verify and test expenditures sufficient to provide assurances that the schedule is fairly presented in relation to the financial statements. The auditor's report on the financial statements shall include an opinion, or disclaimer of opinion, as to whether the schedule is presented fairly in all material respects in relation to the financial statements taken as a whole.

(b) No general obligation debt shall be issued in conjunction with the imposition of the levy unless each county governing authority determines that, and if the debt is to be validated it is demonstrated in the validation proceedings that, during each year in which any payment of principal or interest on the debt comes due, the county will receive from the levy net proceeds sufficient to fully satisfy such liability. General obligation debt issued under this article shall be payable first from the separate account in which are placed the proceeds received by each county from the levy. Such debt, however, shall constitute a pledge of the full faith, credit, and taxing power of each county; and any liability on said debt which is not satisfied from the proceeds of the levy shall be satisfied from the general funds of the county.

(c) The intergovernmental agreement, if applicable, and resolution calling for imposition of the levy may specify that all of the proceeds of the levy will be used for payment of general obligation debt issued in conjunction with the imposition of the levy. If the intergovernmental agreement, if applicable, and resolution so provide, then such proceeds shall be used solely for such purpose except as provided in subsection (f) of this Code section.

(d) The intergovernmental agreement, if applicable, and resolution calling for the imposition of the levy may specify that a part of the proceeds of the levy will be used for payment of general obligation debt issued in conjunction with the imposition of the tax. The intergovernmental agreement, if applicable, and resolution shall specifically state the other purposes for which such proceeds will be used. In such a case, no part of the net proceeds from the levy received in any year shall be used for such other purposes until all debt service requirements of the general obligation debt for that year have first been satisfied from the account in which the proceeds of the levy are placed.

(e) The resolution calling for the imposition of the tax may specify that no general obligation debt is to be issued in conjunction with the imposition of the tax. The

intergovernmental agreement and resolution shall specifically state the purpose or purposes for which the proceeds will be used.

(f)(1)(A) If the proceeds of the levy are specified to be used solely for the purpose of payment of general obligation debt issued in conjunction with the imposition of the levy, then any net proceeds of the levy in excess of the amount required for final payment of such debt shall be subject to and applied as provided in paragraph (2) of this subsection.

(B) If the district receives from the levy net proceeds in excess of the maximum cost of the transportation projects and costs stated in the resolution calling for the imposition of the levy or in excess of the actual cost of such purpose or purposes, then such excess proceeds shall be subject to and applied as provided in paragraph (2) of this subsection unless otherwise specified in the intergovernmental agreement, if applicable.

(C) If the tax is terminated under paragraph (1) of subsection (b) of Code Section 48-8-264 by reason of denial of validation of debt, then all net proceeds received by the special district from the tax shall be excess proceeds subject to paragraph (2) of this subsection.

(2) Excess proceeds subject to this subsection shall be used solely for the purpose of reducing any indebtedness of any county or qualified municipality within the district other than indebtedness incurred pursuant to this article. If there is no such other indebtedness or if the excess proceeds exceed the amount of any such other indebtedness, then the excess proceeds shall next be paid into the general fund of such county or qualified municipality, it being the intent that any funds so paid into the general fund of such county or qualified municipality be used for the purpose of reducing ad valorem taxes.

48-8-269.6.

Not later than December 31 of each year, the governing authority of each county and each qualifying municipality receiving any proceeds from the tax under this article shall publish annually, in a newspaper of general circulation in the boundaries of such county or municipality, a simple, nontechnical report which shows for each purpose in the resolution calling for imposition of the levy the original estimated cost, the current estimated cost if it is not the original estimated cost, amounts expended in prior years, and amounts expended in the current year. The report shall also include a statement of what corrective action the county or municipality intends to implement with respect to each purpose which is underfunded or behind schedule and a statement of any surplus funds which have not been expended for a purpose.″

PART VIII

SECTION 8-1.

This Act shall be known and may be cited as the "Transportation Funding Act of 2015."

SECTION 8-2.

It is the intention of the General Assembly, subject to appropriations and other constitutional obligations of this state, that year to year revenue increases be prioritized to fund education, transportation, and health care in this state.

PART IX

SECTION 9-1.

(a) This Act shall become effective on July 1, 2015.

(b) Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall not be affected by the passage of this Act and shall continue to be governed by the provisions of Title 48 of the Official Code of Georgia Annotated as it existed immediately prior to the effective date of this Act.

SECTION 9-2.

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

House Bill 174 (AS PASSED HOUSE AND SENATE)

By: Representatives Jones of the 62nd, Bruce of the 61st, Gravley of the 67th, Hightower of the 68th, and Alexander of the 66th

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 61 of Title 36 of the Official Code of Georgia Annotated, the "Urban Redevelopment Law," so as to revise terminology from "slums" to "pockets of blight"; 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 61 of Title 36 of the Official Code of Georgia Annotated, the "Urban Redevelopment Law," is amended by revising Code Section 36-61-2, relating to definitions, as follows:

"36-61-2.

As used in this chapter, the term:

(1) 'Agency' or 'urban redevelopment agency' means a public agency created by Code Section 36-61-18.

(2) 'Area of operation' means the area within the corporate limits of the municipality or county and the area within five miles of such limits, except that it shall not include any area which lies within the territorial boundaries of another incorporated municipality or another county unless a resolution is adopted by the governing body of such other municipality or county declaring a need therefor.

(3) 'Board' or 'commission' means a board, commission, department, division, office, body, or other unit of the municipality or county.

(4) 'Bonds' means any bonds (including refunding bonds), notes, interim certificates, certificates of indebtedness, debentures, or other obligations.

(5) 'Clerk' means the clerk or other official of the municipality or county who is the custodian of the official records of such municipality or county.

(6) 'County' means any county in this state.

(7) 'Downtown development authority' means an authority created pursuant to Chapter 42 of this title.

(8) 'Federal government' means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(9) 'Housing authority' means a housing authority created by and established pursuant to Article 1 of Chapter 3 of Title 8, the 'Housing Authorities Law.'

(10) 'Local governing body' means the council or other legislative body charged with governing the municipality and the board of commissioners or governing authority of the county.

(11) 'Mayor' means the mayor of a municipality or other officer or body having the duties customarily imposed upon the executive head of a municipality.

(12) 'Municipality' means any incorporated city or town in ~~the~~ this state.

(13) 'Obligee' includes any bondholder, agents, or trustees for any bondholders, or any lessor demising to the municipality or county property used in connection with an urban redevelopment project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the municipality or county.

(14) 'Person' means any individual, firm, partnership, corporation, company, association, joint-stock association, or body politic and includes any trustee, receiver, assignee, or other person acting in a similar representative capacity.

(15) 'Pocket of blight' means an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age, or obsolescence; inadequate provision for ventilation, light, air, sanitation, or open spaces; high density of population and overcrowding; existence of conditions which endanger life or property by fire and other causes; or any combination of such factors, are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and detrimental to the public health, safety, morals, or welfare. 'Pocket of blight' also means an area which by reason of the presence of a substantial number of deteriorated or deteriorating structures; predominance of defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility, or usefulness; unsanitary or unsafe conditions; deterioration of site or other improvements; tax or special assessment delinquency exceeding the fair value of the land; the existence of conditions which endanger life or property by fire and other causes; having development impaired by airport or transportation noise or other environmental hazards; or any combination of such factors, substantially impairs or arrests the sound growth of a municipality or county, retards the provisions of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.

(16) 'Pocket of blight clearance and redevelopment' may include:

(A) Acquisition of a pocket of blight or portion thereof;

(B) Rehabilitation or demolition and removal of buildings and improvements;

(C) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban redevelopment provisions of this chapter in accordance with the urban redevelopment plan; and

(D) Making the land available for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the municipality or county itself, at its fair value for uses in accordance with the urban redevelopment plan.

~~(15)~~(17) 'Public body' means the state or any municipality, county, board, commission, authority, district, housing authority, urban redevelopment agency, or other subdivision or public body of the state.

~~(16)~~(18) 'Real property' includes all lands, including improvements and fixtures thereon and property of any nature appurtenant thereto or used in connection therewith, and every estate, interest, right, and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise.

~~(17)~~(19) 'Rehabilitation' or 'conservation' may include the restoration and redevelopment of a ~~slum area~~ pocket of blight or portion thereof, in accordance with an urban redevelopment plan, by:

(A) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements;

(B) Acquisition of real property and rehabilitation or demolition and removal of buildings and improvements thereon where necessary to eliminate unhealthful, unsanitary, or unsafe conditions, to lessen density, to reduce traffic hazards, to eliminate obsolete or other uses detrimental to the public welfare, to otherwise remove or prevent the spread of ~~slums~~ pockets of blight or deterioration, or to provide land for needed public facilities;

(C) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban redevelopment provisions of this chapter; and

(D) The disposition of any property acquired in such urban redevelopment area, including sale, initial leasing or retention by the municipality or county itself, at its fair value for uses in accordance with the urban redevelopment plan.

~~(18) 'Slum area' means an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age, or obsolescence; inadequate provision for ventilation, light, air, sanitation, or open spaces; high density of population and overcrowding; existence of conditions which endanger life or property by fire and other causes; or any combination~~

~~of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and is detrimental to the public health, safety, morals, or welfare. 'Slum area' also means an area which by reason of the presence of a substantial number of slum, deteriorated, or deteriorating structures; predominance of defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility, or usefulness; unsanitary or unsafe conditions; deterioration of site or other improvements; tax or special assessment delinquency exceeding the fair value of the land; the existence of conditions which endanger life or property by fire and other causes; by having development impaired by airport or transportation noise or by other environmental hazards; or any combination of such factors substantially impairs or arrests the sound growth of a municipality or county, retards the provisions of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.~~

~~(19) 'Slum clearance and redevelopment' may include:~~

~~(A) Acquisition of a slum area or portion thereof;~~

~~(B) Rehabilitation or demolition and removal of buildings and improvements;~~

~~(C) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the area the urban redevelopment provisions of this chapter in accordance with the urban redevelopment plan; and~~

~~(D) Making the land available for development or redevelopment by private enterprise or public agencies (including sale, initial leasing, or retention by the municipality or county itself) at its fair value for uses in accordance with the urban redevelopment plan.~~

(20) 'Urban redevelopment area' means a ~~slum area~~ pocket of blight which the local governing body designates as appropriate for an urban redevelopment project.

(21) 'Urban redevelopment plan' means a plan, as it exists from time to time, for an urban redevelopment project, which plan shall:

(A) Conform to the general plan for the municipality or county as a whole; and

(B) Be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban redevelopment area; zoning and planning changes, if any; land uses; maximum densities; building requirements; and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

(22) 'Urban redevelopment project' may include undertakings or activities of a municipality or county in an urban redevelopment area for the elimination and for the prevention of the development or spread of ~~slums~~ pockets of blight and may involve ~~slum~~

pocket of blight clearance and redevelopment in an urban redevelopment area, rehabilitation or conservation in an urban redevelopment area, or any combination or part thereof, in accordance with an urban redevelopment plan. Although the power of eminent domain may not be exercised for such purposes, such undertakings or activities may include:

(A) Acquisition, without regard to any requirement that the area be a ~~slum or blighted area~~ pocket of blight, of air rights in an area consisting of lands and highways, railway or subway tracks, bridge or tunnel entrances, or other similar facilities which have a blighting influence on the surrounding area and over which air rights sites are to be developed for the elimination of such blighting influences and for the provision of housing and related facilities and uses designed for, and limited primarily to, families and individuals of low or moderate income; and

(B) Construction of foundations and platforms necessary for the provision of air rights sites of housing and related facilities and uses designed for, and limited primarily to, families and individuals of low or moderate income or construction of foundations necessary for the provision of air rights sites for development of nonresidential facilities.″

SECTION 2.

Said chapter is further amended by revising Code Section 36-61-3, relating to legislative findings and declaration of necessity, as follows:

″36-61-3.

(a) It is found and declared that there exist in municipalities and counties of this state ~~slum areas~~ pockets of blight, as defined in paragraph ~~(18)~~ (15) of Code Section 36-61-2, which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of this state; that the existence of such areas contributes substantially and increasingly to the spread of disease and crime, constitutes an economic and social liability, substantially impairs or arrests the sound growth of municipalities and counties, retards the provision of housing accommodations, aggravates traffic problems, and substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of ~~slums~~ pockets of blight is a matter of state policy and state concern, in order that ~~the~~ this state and its municipalities and counties shall not continue to be endangered by areas which are local centers of disease, promote juvenile delinquency, and, while contributing little to the tax income of ~~the~~ this state and its municipalities and counties, consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization, and other forms of public protection, services, and facilities.

(b) It is further found and declared that certain ~~slum areas~~ pockets of blight or portions thereof may require acquisition, clearance, and disposition, subject to use restrictions, as provided in this chapter, since the prevailing condition of decay may make impracticable the reclamation of the area by conservation or rehabilitation; that the other areas or portions thereof, through the means provided in this chapter, may be susceptible of conservation or rehabilitation in such a manner that the conditions and evils enumerated in subsection (a) of this Code section may be eliminated, remedied, or prevented and that, to the extent that is feasible, salvable ~~slum areas~~ pockets of blight should be conserved and rehabilitated through voluntary action and the regulatory process.

(c) It is further found and declared that the powers conferred by this chapter are for public uses and purposes for which public money may be expended and the power of eminent domain may be exercised. The necessity, in the public interest, for the provisions enacted in this chapter is declared as a matter of legislative determination.″

SECTION 3.

Said chapter is further amended by revising Code Section 36-61-5, relating to resolution of necessity as prerequisite to exercise of powers, as follows:

″36-61-5.

No municipality or county shall exercise any of the powers conferred upon municipalities and counties by this chapter until after its local governing body has adopted a resolution finding that:

(1) One or more ~~slum areas~~ pockets of blight exist in such municipality or county; and

(2) The rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of the municipality or county.″

SECTION 4.

Said chapter is further amended by revising Code Section 36-61-6, relating to formulation of workable program, as follows:

″36-61-6.

For the purposes of this chapter, a municipality or county may formulate a workable program for utilizing appropriate private and public resources, including those specified in Code Section 36-61-11, to eliminate and prevent the development or spread of ~~slums~~ pockets of blight, to encourage needed urban rehabilitation, to provide for the redevelopment of ~~slum areas~~ pockets of blight, or to undertake such of the aforesaid activities or such other feasible municipal or county activities as may be suitably employed to achieve the objectives of such workable program. Such workable program may include,

without limitation, provision for the prevention of the spread of ~~slums~~ pockets of blight into areas of the municipality or county which are free from ~~slums~~ pockets of blight, through diligent enforcement of housing, zoning, and occupancy controls and standards; the rehabilitation or conservation of ~~slum areas~~ pockets of blight or portions thereof by replanning, removing congestion, providing parks, playgrounds, and other public improvements, encouraging voluntary rehabilitation, and compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of ~~slum areas~~ pockets of blight or portions thereof.″

SECTION 5.

Said chapter is further amended by revising Code Section 36-61-7, relating to preparation of redevelopment plan, approval, modification, and effect of approval, as follows:

″36-61-7.

(a) A municipality or county shall not approve an urban redevelopment plan for an urban redevelopment area unless the governing body, by resolution, has determined such area to be a ~~slum area~~ pocket of blight and designated such area as appropriate for an urban redevelopment project. Authority is vested in every municipality and county to prepare, to adopt, and to revise, from time to time, a general plan for the physical development of the municipality or county as a whole (giving due regard to the environs and metropolitan surroundings), to establish and maintain a planning commission for such purpose and related municipal and county planning activities, and to make available and to appropriate the necessary funds therefor. A municipality or county shall not acquire real property for an urban redevelopment project unless the local governing body has approved the urban redevelopment plan in accordance with subsection (d) of this Code section.

(b) The municipality or county may itself prepare or cause to be prepared an urban redevelopment plan; alternatively, any person or agency, public or private, may submit a plan to a municipality or county.

(c) The local governing body of the municipality or county shall hold or shall cause some agency of the municipality or county to hold a public hearing on an urban redevelopment plan or a substantial modification of an approved urban redevelopment plan, after public notice thereof by publication in a newspaper having a general circulation in the area of operation of the municipality or county. The notice shall describe the time, date, place, and purpose of the hearing, shall generally identify the urban redevelopment area covered by the plan, and shall outline the general scope of the urban redevelopment project under consideration.

(d) Following such hearing, the local governing body may approve an urban redevelopment plan if it finds that:

(1) A feasible method exists for the relocation of families who will be displaced from the urban redevelopment area in decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such families;

(2) The urban redevelopment plan conforms to the general plan of the municipality or county as a whole; and

(3) The urban redevelopment plan will afford maximum opportunity, consistent with the sound needs of the municipality or county as a whole, for the rehabilitation or redevelopment of the urban redevelopment area by private enterprise.

(e) An urban redevelopment plan may be modified at any time, provided that, if modified after the lease or sale by the municipality or county of real property in the urban redevelopment project area, such modification shall be subject to such rights at law or in equity as a lessee or purchaser or his or her successor or successors in interest may be entitled to assert. Any proposed modification which will substantially change the urban redevelopment plan as previously approved by the local governing body shall be subject to the requirements of this Code section, including the requirement of a public hearing, before it may be approved.

(f) Upon the approval of an urban redevelopment plan by a municipality or county, the provisions of the plan with respect to the future use and building requirements applicable to the property covered by the plan shall be controlling with respect thereto."

SECTION 6.

Said chapter is further amended by revising paragraphs (1), (6), and (9) of Code Section 36-61-8, relating to powers of municipalities and counties generally, as follows:

"(1) To undertake and carry out urban redevelopment projects within its area of operation; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this chapter; and to disseminate ~~slum~~ pocket of blight clearance and urban redevelopment information;"

"(6) Within their area of operation, to make or have made all plans necessary to the carrying out of the purposes of this chapter and to contract with any person, public or private, in making and carrying out such plans and to adopt or approve, modify, and amend such plans. Such plans may include, without limitation:

(A) A general plan for the locality as a whole;

(B) Urban redevelopment plans;

(C) Plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements, to include but not to be limited to making loans and grants from funds received from the federal government, as well as from funds received from the repayment of such loans and interest thereon, to persons, public

or private, owning private housing for the purpose of financing the rehabilitation of such housing;

(D) Plans for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements; and

(E) Appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to prepare for the undertaking of urban redevelopment projects.

The municipality or county is authorized to develop, test, and report methods and techniques and to carry out demonstrations and other activities for the prevention and elimination of ~~slums~~ pockets of blight and to apply for, accept, and utilize grants of funds from the federal government for such purposes;″

″(9) Within their areas of operation, to organize, coordinate, and direct the administration of the provisions of this chapter as they apply to such municipality or county, in order that the objective of remedying ~~slums~~ pockets of blight and preventing the causes thereof within the municipality or county may be most effectively promoted and achieved, and to establish such new office or offices of the municipality or county or to reorganize existing offices in order to carry out such purpose most effectively~~.~~; and″

SECTION 7.

Said chapter is further amended by revising subsection (a) of Code Section 36-61-10, relating to disposal of property in redevelopment area generally, notice and bidding procedures, exchange with veterans' organization, and temporary operation of property, as follows:

″(a) A municipality or county may sell, lease, or otherwise transfer real property in an urban redevelopment area or any interest therein acquired by it and may enter into contracts with respect thereto, for residential, recreational, commercial, industrial, or other uses or for public use; or the municipality or county may retain such property or interest for public use, in accordance with the urban redevelopment plan, subject to such covenants, conditions, and restrictions, including covenants running with the land and including the incorporation by reference therein of the provisions of an urban redevelopment plan or any part thereof, as it may deem to be in the public interest or necessary or desirable to assist in preventing the development or spread of future ~~slums~~ pockets of blight or to otherwise carry out the purposes of this chapter. Such sale, lease, other transfer, or retention and any agreement relating thereto may be made only after the approval of the urban redevelopment plan by the local governing body. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban redevelopment plan and may be obligated to comply with such other requirements

as the municipality or county may determine to be in the public interest, including the obligation to begin within a reasonable time any improvements on the real property required by the urban redevelopment plan. Such real property or interest shall be sold, leased, otherwise transferred, or retained at not less than its fair value for uses in accordance with the urban redevelopment plan. In determining the fair value of real property for uses in accordance with the urban redevelopment plan, a municipality or county shall take into account and give consideration to the uses provided in such plan; the restrictions upon and the covenants, conditions, and obligations assumed by the purchaser or lessee or by the municipality or county retaining the property; and the objectives of such plan for the prevention of the recurrence of ~~slum areas~~ pockets of blight. The municipality or county in any instrument of conveyance to a private purchaser or lessee may provide that such purchaser or lessee shall be without power to sell, lease, or otherwise transfer the real property without the prior written consent of the municipality or county until he or she has completed the construction of any and all improvements which he or she has obligated himself or herself to construct thereon. Real property acquired by a municipality or county which, in accordance with the provisions of the urban redevelopment plan, is to be transferred shall be transferred as rapidly as feasible in the public interest consistent with the carrying out of the provisions of the urban redevelopment plan. The inclusion in any such contract or conveyance to a purchaser or lessee of any such covenants, restrictions, or conditions, including the incorporation by reference therein of the provisions of an urban redevelopment plan or any part thereof, shall not prevent the filing of the contract or conveyance in the land records of the county in such manner as to afford actual or constructive notice thereof."

SECTION 8.

Said chapter is further amended by revising subsection (b) of Code Section 36-61-17, relating to exercise of redevelopment powers by municipalities and counties and delegation to redevelopment agency or housing authority, as follows:

"(b) As used in this Code section, the term 'urban redevelopment project powers' shall include all of the rights, powers, functions, duties, privileges, immunities, and exemptions granted to a municipality or county under this chapter, except the following:

(1) The power to determine an area to be a ~~slum area~~ pocket of blight and to designate such area as appropriate for an urban redevelopment project;

(2) The power to approve and amend urban redevelopment plans;

(3) The power to establish a general plan for the locality as a whole;

(4) The power to formulate a workable program under Code Section 36-61-6;

(5) The powers, duties, and functions referred to in Code Section 36-61-11;

(6) The power to make the determinations and findings provided for in Code Section 36-61-4, Code Section 36-61-5, and subsection (d) of Code Section 36-61-7;

(7) The power to issue general obligation bonds; and

(8) The power to appropriate funds, to levy taxes and assessments, and to exercise other powers provided for in paragraph (8) of Code Section 36-61-8.″

SECTION 9.

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

House Bill 192 (AS PASSED HOUSE AND SENATE)

By: Representatives Powell of the 32nd and Taylor of the 79th

A BILL TO BE ENTITLED

AN ACT

To amend Article 3 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to illegal use of financial transaction cards, so as to revise definitions; to provide for the prosecution of the unlawful use of government purchasing cards; to provide for venue; to amend Chapter 80 of Title 36 of the Official Code of Georgia Annotated, relating to general provisions regarding counties, municipal corporations, and other governmental entities, so as to provide for the limitation and regulation of the use of government purchasing cards and government credit cards by elected officials of counties, municipal corporations, local school systems, and consolidated governments; to provide for the promulgation of certain policies; to provide for access to certain records; to provide for certain powers for certain local authorities; to provide a definition; to make certain 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.

Article 3 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to illegal use of financial transaction cards, is amended by revising Code Section 16-9-30, relating to definitions, as follows:

"16-9-30.

As used in this article, the term:

(1) 'Acquirer' means a business organization, <u>government,</u> financial institution, or an agent of a business organization<u>, government,</u> or financial institution that authorizes a merchant to accept payment by financial transaction card for money, goods, services, or anything else of value.

(2) 'Automated banking device' means any machine which when properly activated by a financial transaction card and personal identification code may be used for any of the purposes for which a financial transaction card may be used.

(3) 'Cardholder' means the person, government, or organization ~~named on the face of a financial transaction card~~ to whom or for whose benefit the financial transaction card is issued by an issuer.

(4) 'Expired financial transaction card' means a financial transaction card which is no longer valid because the term for which it was issued has elapsed.

(5) 'Financial transaction card' or 'FTC' means any instrument or device, whether known as a credit card, credit plate, bank services card, banking card, check guarantee card, debit card, or by any other name, issued with or without fee by an issuer for the use of the cardholder:

(A) In obtaining money, goods, services, or anything else of value;

(B) In certifying or guaranteeing to a person or business the availability to the cardholder of funds on deposit that are equal to or greater than the amount necessary to honor a draft or check payable to the order of such person or business; or

(C) In providing the cardholder access to a demand deposit account, savings account, or time deposit account for the purpose of:

(i) Making deposits of money or checks therein;

(ii) Withdrawing funds in the form of money, money orders, or traveler's checks therefrom;

(iii) Transferring funds from any demand deposit account, savings account, or time deposit account to any other demand deposit account, savings account, or time deposit account;

(iv) Transferring funds from any demand deposit account, savings account, or time deposit account to any credit card accounts, overdraft privilege accounts, loan accounts, or any other credit accounts in full or partial satisfaction of any outstanding balance owed existing therein;

(v) For the purchase of goods, services, or anything else of value; or

(vi) Obtaining information pertaining to any demand deposit account, savings account, or time deposit account.

(5.1) 'Financial transaction card account number' means a number, numerical code, alphabetical code, or alphanumeric code assigned by the issuer to a particular financial transaction card and which identifies the cardholder's account with the issuer.

(5.2) 'Government' means:

(A) Every state department, agency, board, bureau, commission, and authority;

(B) Every county, municipal corporation, school system, or other political subdivision of this state;

(C) Every department, agency, board, bureau, commission, authority, or similar body of each such county, municipal corporation, school system, or other political subdivision of this state; and

(D) Every city, county, regional, or other authority established pursuant to the laws of this state.

(6) 'Issuer' means the business organization or financial institution or its duly authorized agent which issues a financial transaction card.

(7) 'Personal identification code' means a numeric or alphabetical code, signature, photograph, fingerprint, or any other means of electronic or mechanical confirmation used by the cardholder of a financial transaction card to permit authorized electronic use of that financial transaction card.

(8) 'Presenting' means those actions taken by a cardholder or any person to introduce a financial transaction card into an automated banking device with or without utilization of a personal identification code or merely displaying or showing, with intent to defraud, a financial transaction card to the issuer or to any person or organization providing money, goods, services, or anything else of value or to any other entity.

(8.1) 'Purchasing card,' 'PCard,' or 'P-Card' means a type of financial transaction card allowing persons, governments, or business organizations to use financial transaction infrastructure.

(9) 'Receives' or 'receiving' means acquiring possession of or control of or accepting a financial transaction card as security for a loan.

(10) 'Revoked financial transaction card' means a financial transaction card which is no longer valid because permission to use it has been suspended or terminated by the issuer.″

SECTION 2.

Said article is further amended by revising Code Section 16-9-33, relating to financial transaction card fraud, as follows:

″16-9-33.

(a) A person commits the offense of financial transaction card fraud when, with intent to defraud the issuer; a person or organization providing money, goods, services, or anything else of value; or any other person; or cardholder, ~~he~~ such person:

(1) Uses for the purpose of obtaining money, goods, services, or anything else of value:

(A) A financial transaction card obtained or retained or which was received with knowledge that it was obtained or retained in violation of Code Section 16-9-31 or 16-9-32;

(B) A financial transaction card which he or she knows is forged, altered, expired, revoked, or was obtained as a result of a fraudulent application in violation of subsection (d) of this Code section; or

(C) The financial transaction card account number of a financial transaction card which he or she knows has not in fact been issued or is forged, altered, expired, revoked, or was obtained as a result of a fraudulent application in violation of subsection (d) of this Code section;

(2) Obtains money, goods, services, or anything else of value by:

(A) Representing without the consent of the cardholder that he or she is the holder of a specified card;

(B) Presenting the financial transaction card without the authorization or permission of the cardholder or issuer;

(C) Falsely representing that he or she is the holder of a card and such card has not in fact been issued; or

(D) Giving, orally or in writing, a financial transaction card account number to the provider of the money, goods, services, or other thing of value for billing purposes without the authorization or permission of the cardholder or issuer for such use;

(3) Obtains control over a financial transaction card as security for debt;

(4) Deposits into his or her account or any account by means of an automated banking device a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other such document not his or her lawful or legal property; or

(5) Receives money, goods, services, or anything else of value as a result of a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other such document having been deposited into an account via an automated banking device, knowing at the time of receipt of the money, goods, services, or item of value that the document so deposited was false, fictitious, forged, altered, or counterfeit or that the above-deposited item was not his lawful or legal property.

(b) A person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a financial transaction card by the cardholder or any agent or employee of such person commits the offense of financial transaction card fraud when, with intent to defraud the issuer or the cardholder, he or she:

(1) Furnishes money, goods, services, or anything else of value upon presentation of a financial transaction card obtained or retained in violation of Code Section 16-9-31 or a financial transaction card which he or she knows is forged, expired, or revoked;

(2) Alters a charge ticket or purchase ticket to reflect a larger amount than that approved by the cardholder; or

(3) Fails to furnish money, goods, services, or anything else of value which he or she represents in writing to the issuer that he or she has furnished.

(c) Conviction of the offense of financial transaction card fraud as provided in subsection (a) or (b) of this Code section is punishable as provided in subsection (a) of Code Section 16-9-38 if the value of all money, goods, services, and other things of value furnished in violation of this Code section or if the difference between the value actually furnished and the value represented to the issuer to have been furnished in violation of this Code section does not exceed $100.00 in any six-month period. Conviction of the offense of financial transaction card fraud as provided in subsection (a) or (b) of this Code section is punishable as provided in subsection (b) of Code Section 16-9-38 if such value exceeds $100.00 in any six-month period.

(d) A person commits the offense of financial transaction card fraud when, upon application for a financial transaction card to an issuer, he or she knowingly makes or causes to be made a false statement or report relative to his or her name, occupation, employer, financial condition, assets, or liabilities or willfully and substantially overvalues any assets or willfully omits or substantially undervalues any indebtedness for the purpose of influencing the issuer to issue a financial transaction card. Financial transaction card fraud as provided in this subsection is punishable as provided in subsection (b) of Code Section 16-9-38.

(e) A cardholder commits the offense of financial transaction card fraud when he or she willfully, knowingly, and with an intent to defraud the issuer; a person or organization providing money, goods, services, or anything else of value; or any other person submits verbally or in writing to the issuer or any other person any false notice or report of the theft, loss, disappearance, or nonreceipt of his or her financial transaction card and personal identification code. Conviction of the offense of financial transaction card fraud as provided in this subsection is punishable as provided in subsection (b) of Code Section 16-9-38.

(f) A person authorized by an acquirer to furnish money, goods, services, or anything else of value upon presentation of a financial transaction card or a financial transaction card account number by a cardholder or any agent or employee of such person, who, with intent to defraud the issuer, acquirer, or cardholder, remits to an issuer or acquirer, for payment, a financial transaction card record of a sale, which sale was not made by such person, agent, or employee, commits the offense of financial transaction card fraud. Conviction of the offense of financial transaction card fraud as provided in this subsection shall be punishable as provided in subsection (b) of Code Section 16-9-38.

(g) ~~In any prosecution for violation of this Code section, the state is not required to establish that all of the acts constituting the crime occurred in this state or within one city,~~

~~county, or local jurisdiction, and it is no defense that some of the acts constituting the crime did not occur in this state or within one city, county, or local jurisdiction. Except as otherwise provided by Code Section 17-2-2, for purposes of venue the crime defined by this Code section shall be considered as having been committed in the county where the commission of the crime commenced~~ Reserved.

(h) For purposes of this Code section, revocation shall be construed to include either notice given in person or notice given in writing to the person to whom the financial transaction card and personal identification code was issued. Notice of revocation shall be immediate when notice is given in person. The sending of a notice in writing by registered or certified mail or statutory overnight delivery in the United States mail, duly stamped and addressed to such person at his or her last address known to the issuer, shall be prima-facie evidence that such notice was duly received after seven days from the date of deposit in the mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone, and Canada, notice shall be presumed to have been received ten days after mailing by registered or certified mail or statutory overnight delivery."

SECTION 3.

Said article is further amended by revising Code Section 16-9-37, relating to unauthorized use of financial transaction card, as follows:

"16-9-37.

(a) Any person who has been issued or entrusted with a financial transaction card for specifically authorized purposes, provided such authorization is in writing stating a maximum amount charges that can be made with the financial transaction card, and who uses the financial transaction card in a manner and for purposes not authorized in order to obtain or purchase money, goods, services, or anything else of value shall be punished as provided in subsection (a) of Code Section 16-9-38.

(b) Any person who has been issued or entrusted with a financial transaction card by a government for specifically limited and specifically authorized purposes, provided such limitations and authorizations are in writing, and who uses the financial transaction card in a manner and for purposes not authorized shall be punished as provided in subsection (b) of Code Section 16-9-38."

SECTION 4.

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

"16-9-40.

(a) In any prosecution for a violation of this article, the state is not required to establish that all of the acts constituting the crime occurred in this state or within one city, county,

or local jurisdiction, and it is no defense that some of the acts constituting the crime did not occur in this state or within one city, county, or local jurisdiction. Except as otherwise provided by Code Section 17-2-2, for purposes of venue, the crime defined by this Code section shall be considered as having been committed in the county where the commission of the crime commenced.

(b) In any prosecution for a violation of this article by a public official or government employee, using government funds or a financial transaction card issued to such official or government employee by or on behalf of government, the crime shall be considered to have been committed in the county in which such public official holds office or such government employee is employed.″

SECTION 5.

Chapter 80 of Title 36 of the Official Code of Georgia Annotated, relating to general provisions regarding counties, municipal corporations, and other governmental entities, is amended by adding a new Code section to read as follows:

″36-80-24.

(a) An elected official of a county, municipal corporation, local school system, or consolidated government shall be prohibited from the use of a government purchasing card or a government credit card unless:

(1) Such purchases are solely for items or services that directly relate to such official's public duties; and

(2) Such purchases are in accordance with guidelines adopted by the county, municipal corporation, local school system, or consolidated government.

(b) Documents related to such purchases incurred by such elected officials shall be available for public inspection.

(c) No such county, municipal corporation, local school system, or consolidated government shall issue government purchasing cards or government credit cards to elected officials on or after January 1, 2016, until the governing authority of such county, municipal corporation, local school system, or consolidated government, by public vote, has authorized such issuance and has promulgated specific policies regarding the use of such government purchasing cards or government credit cards for elected officials of such county, municipal corporation, local school system, or consolidated government. Such policies shall include the following:

(1) Designation of officials who shall be authorized to be issued such government purchasing cards or government credit cards;

(2) A requirement that, before being issued a government purchasing card or government credit card, authorized users shall sign and accept an agreement with the county,

municipal corporation, local school system, or consolidated government issuing the government purchasing card or government credit card that such users will use such cards only in accordance with the policies of the issuing governmental entity;

(3) Transaction limits for the use of such cards;

(4) A description of purchases that shall be authorized for use of such cards;

(5) A description of purchases that shall not be authorized for use of such cards;

(6) Designation of a government purchasing card or government credit card administrator;

(7) A process for auditing and reviewing purchases made with such cards; and

(8) Procedures for addressing a violation of such purchasing card or credit card policies and imposing penalties for violations including, but not limited to, revocation of purchasing card or credit card privileges. Nothing in such procedures or any administrative action taken pursuant thereto shall preclude any other civil or criminal remedy under any other provision of law.″

SECTION 6.

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

″36-80-25.

(a) As used in this Code section, the term 'project' means and includes hospitals, health care facilities, dormitories, office buildings, clinics, housing accommodations, nursing homes, rehabilitation centers, extended care facilities, and other health related facilities, whether public or private.

(b) To the extent that the Constitution of Georgia permits the General Assembly by law to further define the powers and duties of any local government authority, as defined in Code Section 36-80-16, whose purpose includes the public purpose of developing or promoting trade, commerce, or industry, and to enlarge or restrict the same, each such local government authority is authorized and shall have the power to finance (by loan, grant, lease, or otherwise), refinance, construct, erect, assemble, purchase, acquire, own, repair, remodel, renovate, rehabilitate, modify, maintain, extend, improve, install, sell, equip, expand, add to, operate, or manage projects and to pay the cost of any project from the proceeds of revenue bonds of such a local government authority or any other funds of such local government authority, or from any contributions or loans by persons, corporations, limited or general partnerships, or other entities, all of which such a local government authority is authorized to receive, accept, and use. To the extent that any project serves a governmental function, the General Assembly finds and determines that such a project by its nature comprises both public and private components that are integrated so as to

produce the desired public purpose and that therefore carrying out such a project is proper and authorized for such a local government authority under the Constitution of Georgia."

SECTION 7.

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

House Bill 199 (AS PASSED HOUSE AND SENATE)

By: Representatives Corbett of the 174th, Nimmer of the 178th, Shaw of the 176th, Epps of the 144th, Carter of the 175th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Part 1A of Article 1 of Chapter 6 of Title 12 of the Official Code of Georgia Annotated, relating to timber harvesting and removal requirements, so as to require notice of timber harvesting only in an approved form; to provide that one bond shall be required for each county or municipality; to provide that no county may require an administrative fee for receiving a notice of timber harvesting; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1A of Article 1 of Chapter 6 of Title 12 of the Official Code of Georgia Annotated, relating to timber harvesting and removal requirements, is amended by revising Code Section 12-6-24, relating to notice of timber harvesting operations, as follows:

"12-6-24.

(a)(1) A county governing authority may by ordinance or resolution require all persons or firms harvesting standing timber in any unincorporated area of such county for delivery as pulpwood, logs, poles, posts, or wood chips to any woodyard or processing plant located inside or outside this state to provide notice of such harvesting operations to the county governing authority or the designated agent thereof prior to ~~cutting any such timber~~ <u>entering onto the property if possible, but in no event later than 24 hours after entering onto the property. Further, such persons shall give notice of cessation of cutting within 24 hours after the job is completed</u>.

(2) A municipal governing authority may by ordinance or resolution require all persons or firms harvesting standing timber in any incorporated area of such municipality for delivery as pulpwood, logs, poles, or wood chips to any woodyard or processing plant located inside or outside this state to provide notice of such harvesting operations to the municipal governing authority or the designated agent thereof prior to ~~cutting any such timber~~ <u>entering onto the property if possible, but in no event later than 24 hours after</u>

entering onto the property. Further, such persons shall give notice of cessation of cutting within 24 hours after the job is completed.

(b) Any ordinance or resolution adopted pursuant to subsection (a) of this Code section shall conform to the following requirements:

(1) Prior written notice shall be required of any person or firm harvesting such timber for each separate tract to be harvested thereby, shall be made only in such form as prescribed by rule or regulation of the director, and shall ~~consist of~~ be limited to the following:

(A) A map of the area which identifies the location of the tract to be harvested and, as to those trucks which will be traveling to and from such tract for purposes of picking up and hauling loads of cut forest products, the main point of ingress to such tract from a public road and, if different, the main point of egress from such tract to a public road;

(B) A statement as to whether the timber will be removed pursuant to a lump sum sale, per unit sale, or owner harvest for purposes of ad valorem taxation under Code Section 48-5-7.5;

(C) The name, address, and daytime telephone number of the timber seller if the harvest is pursuant to a lump sum or per unit sale or of the timber owner if the harvest is an owner harvest; and

(D) The name, business address, business telephone number, and nighttime or emergency telephone number of the person or firm harvesting such timber;

(2) Notice may be submitted in person, by transmission of an electronic record via telefacsimile, e-mail, or such other means as approved by the governing authority, or by mail;

(3) The governing authority may require persons or firms subject to such notice requirement to deliver a bond or letter of credit as provided by this paragraph, in which case notice shall not be or remain effective for such harvesting operations unless and until the person or firm providing such notice has delivered to the governing authority or its designated agent a valid surety bond, executed by a surety corporation authorized to transact business in this state, protecting the county or municipality, as applicable, against any damage caused by such person or firm in an amount specified by the governing authority not exceeding $5,000.00 or, at the option of the person or firm harvesting timber, a valid 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 such bond. Each county or municipality shall require no more than one bond from each person or firm harvesting timber regardless of the number of tracts harvested in such county or municipality by each such person or firm so long as the bond remains in effect. Otherwise, a valid replacement bond must be obtained and delivered to the governing authority of such county or municipality or its designated agent no later than the close of

business on the fifth business day following the day that such governing authority filed a claim to recover damages against the then-existing bond. Upon filing such claim, such governing authority shall immediately provide notice thereof, including the date such claim was filed, to the person or firm causing the damage. Such notice may be given in person, by transmission of an electronic record via telefacsimile, or by e-mail. For purposes of this paragraph, any such surety bond or letter of credit shall be valid only for the calendar year in which delivered;

(4) Notice shall be effective for such harvesting operation on such tract within such unincorporated area of the county or incorporated area of the municipality upon receipt of the same by the applicable governing authority or its designated agent and, if applicable, compliance with the requirements of paragraph (3) of this subsection and until such time as the person or firm giving such notice has completed the harvesting operation for such tract; provided, however, that any subsequent change in the facts required to be provided for purposes of such notice shall be reported to the governing authority or its designated agent within three business days after such change;

(5) Notice requirements shall be applicable to any such timber harvested on or after the effective date of the ordinance or resolution adopted pursuant to this Code section; and

(6) Violation of the notice requirements of any ordinance or resolution adopted pursuant to this Code section shall be punishable by a fine not exceeding $500.00.

(c) The director shall promulgate such rules and regulations as are reasonable and necessary for purposes of the standard form required by paragraph (1) of subsection (b) of this Code section.

(d) Any municipal governing authority or designated agent thereof which receives a notice required by ordinance or resolution adopted pursuant to this Code section regarding timber harvesting operations to be conducted in whole or in part within the corporate limits of such municipality shall transmit a copy of such notice to the governing authority of the county or the designated agent thereof.

(e)(1) No county, municipality, or other political subdivision in this state shall require any person or firm harvesting standing timber therein for delivery as pulpwood, logs, poles, posts, or wood chips to any woodyard or processing plant located inside or outside this state to provide any notice of or plan or security for such harvesting or hauling of forest products except as provided by this Code section.

(2) No county, municipality, or other political subdivision in this state shall require any person or firm harvesting standing timber therein for delivery as pulpwood, logs, poles, posts, or wood chips to any woodyard or processing plant located inside or outside this state to obtain any permit for such harvesting or hauling of forest products, including without limitation any permit for any new driveway in connection with timber harvesting

operations; provided, however, that this paragraph shall not otherwise limit the authority of a county or municipality to regulate roads or streets under its jurisdiction in accordance with Title 32.

(3) The provisions of paragraphs (1) and (2) of this subsection shall not preclude counties, municipalities, and other political subdivisions from enacting and enforcing tree ordinances, landscape ordinances, or streamside buffer ordinances; provided, however, such ordinances shall not apply to timber harvesting as described in subparagraph (A) of paragraph (4) of this subsection or in unzoned tracts as described in subparagraph (B) of paragraph (4) of this subsection.

(4)(A) The limitations on the regulatory authority of counties, municipalities, or other political subdivisions provided by paragraphs (1), (2), and (3) of this subsection shall apply only to timber harvesting operations which qualify as forestry land management practices or agricultural operations under Code Section 12-7-17, not incidental to development, on tracts which are zoned for or used for forestry, silvicultural, or agricultural purposes.

(B) The limitations on the regulatory authority of counties, municipalities, or other political subdivisions provided by paragraphs (1), (2), and (3) of this subsection shall also apply to tracts which are unzoned.

<u>(5) No county or municipality shall require a fee of any kind for receiving a notification of a timber harvest.</u>″

SECTION 2.

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

House Bill 202 (AS PASSED HOUSE AND SENATE)

By: Representatives Battles of the 15th, Williamson of the 115th, Harrell of the 106th, Jasperse of the 11th, Taylor of the 79th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to provide for a license plate for automobile dealers headquartered in Georgia; to amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to provide for the comprehensive revision of provisions regarding ad valorem taxation, assessment, and appeal; to modify the penalty for failure to file a return; to modify certain provisions relating to tax executions; to provide a definition; to change the timing of the sale of tax executions; to change certain provisions regarding the publication of ad valorem tax rates; to change certain provisions relating to interest on unpaid ad valorem taxes; to change certain provisions regarding penalties for certain incomplete or improper tax digests; to change certain provisions relating to joint county appraisal staffs and contracting for advice and assistance; to change certain provisions relating to ascertainment of taxable property, assessments and penalties against unreturned property, and changing valuations established by appeal; to repeal certain provisions regarding unreturned property in counties having a population of 600,000 or more; to change certain provisions relating to the time for completion of revision and assessment of returns and submission of completed tax digest to the state revenue commissioner; to change certain provisions relating to the annual notice of current assessment; to provide a cause of action for failure to provide requested information; to revise substantially certain provisions relating to county boards of equalization and ad valorem tax appeals; to provide for an appeal administrator and to specify powers, duties, and functions; to repeal and reenact certain provisions regarding arbitration appeals and court appeals of ad valorem taxes; to change certain provisions relating to examination of county tax digests by the state revenue commissioner and provide that certain assessments and penalties shall not apply during a specified period of time; to change certain provisions relating to the levy and collection of tax by municipalities for independent school systems; to change certain provisions relating to the issuance of mobile home location permits; to provide for increased criminal penalties for failure to attach and display certain mobile home decals; to change certain provisions relating to mobile home tax returns and decal application and issuance; to change certain provisions relating to the alternative ad valorem tax on motor

vehicles; to change certain provisions relating to real estate transfer tax exemptions; to change certain provisions relating to real estate transfer tax payment as certain filing prerequisites; to provide for powers, duties, and authority of the Department of Revenue and the state revenue commissioner; to provide for a sales tax exemption for certain private colleges on construction materials; to provide for related matters; to provide for effective dates and applicability; 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 and traffic, is amended by adding a new paragraph to Code Section 40-1-1, relating to definitions regarding motor vehicles and traffic, to read as follows:

″(26.1) 'Manufacturer headquarters' means the headquarters operation of:

(A) A manufacturer as defined in paragraph (26) of this Code section; or

(B) An affiliate of a person engaged in the manufacture of vehicles in this or any other state and which operation is conducted primarily at an established place of business in this state.″

SECTION 2.

Said title is further amended by revising Code Section 40-2-38, relating to registration and licensing of manufacturers, distributors, and dealers or vehicles, as follows:

″40-2-38.

(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.

(2) No dealer may use or permit to be used a dealer's number for private use or on cars for hire, for lease, or other manner not provided for in this Code section. A dealer may use or permit to be used a dealer's number for private use on vehicles owned by the dealership, regardless of whether such vehicle has been issued a certificate of title or registered, when such vehicles are operated by an employee or corporate officer of the dealer which has been issued such number. A distinguishing dealer's number used by an employee or officer for private use shall authorize such person to operate the vehicle to which the number is attached on the public highways and streets. For purposes of this paragraph, 'employee' means a person who works a minimum of 36 hours per week at the dealership.

(3) The manufacturer's or distributor's license plate is limited to no longer than six months' use per vehicle. Upon payment of such a fee by a manufacturer or distributor, the commissioner shall issue to manufacturers and distributors number plates with the word 'Manufacturer' or 'Distributor' on such plates. Nothing in this subsection shall preclude a manufacturer or distributor from using a 'Manufacturer' or 'Distributor' number plate on motor vehicles it owns when such vehicles are used for evaluation or demonstration purposes, notwithstanding incidental personal use by a manufacturer or distributor. A dealer may apply for one or more distinguishing dealer's numbers. In the event the dealers, distributors, or manufacturers desire more than one tag, they shall so state on the application, and, in addition to the fee of $62.00 provided in this Code section, shall pay $12.00 for each and every additional number plate furnished.

(4)(A) Upon application and payment of the required fee, the commissioner shall issue to manufacturer headquarters or its affiliate number license plates with the words 'Manufacturer HQ' on such plates. The manufacturer headquarters license plates must be used exclusively on motor vehicles owned or in possession of a manufacturer headquarters or its affiliate. Such manufacturer headquarters plates are limited to no longer than 24 months' use per vehicle.

(B) A manufacturer headquarters or its affiliate shall apply on a form prescribed by the commissioner and shall provide proof that the applicant:

(i) Is a bona fide manufacturer headquarters; and

(ii) Maintains a system of records regarding use of such license plates. The manufacturer headquarters shall state in each application the number of manufacturer headquarters license plates requested.

(C) The manufacturer headquarters or its affiliate shall pay an application fee of $62.00 per application as provided in this Code section, and shall pay $12.00 for each and

every plate furnished. With respect to any manufacturer headquarters license plate issued to a manufacturer headquarters or its affiliate, notwithstanding anything to the contrary in this title or Code Section 48-5C-1, such manufacturer headquarters or its affiliate, and any person operating or possessing a motor vehicle using a manufacturer headquarters license plate pursuant to this paragraph, shall not be subject to state or local title ad valorem tax fees with respect to such vehicle or manufacturer headquarters license plate.

(D) The manufacturer headquarters or its affiliate shall maintain a system of records regarding the motor vehicle to which the manufacturer headquarters license plate will be attached. Such record shall, at a minimum, contain the:

(i) Vehicle Identification Number (VIN);

(ii) Name and address of the primary individual operating the vehicle; and

(iii) Manner of use of the vehicle selected from the alternative uses referenced in subparagraph (E) of this paragraph.

(E) Vehicles with manufacturer headquarters license plates may be operated by persons authorized by the manufacturer headquarters or its affiliate on vehicles of its brand for the following manners of use:

(i) Evaluation, marketing, or demonstration purposes, notwithstanding incidental personal use by a manufacturer headquarters' authorized employee or other authorized person designated by such manufacturer headquarters or its affiliate; or

(ii) As part of a vehicle leasing program operated by such manufacturer headquarters or its affiliate for the benefit of employees. Any operation of a motor vehicle by a person for an approved use pursuant to this subparagraph shall be deemed to be a demonstration of the motor vehicle for purposes of Code Section 48-8-39.

(b) Dealer plates shall be issued in the following manner:

(1) Dealers shall be issued a master plate and two additional plates, for a total of three initial plates; and

(2) In addition to the three dealer plates issued in accordance with paragraph (1) of this subsection, each dealer may also be issued one additional dealer plate for every 20 units sold in a calendar year.

In order to determine the additional number and classification of plates to be issued to a dealer, a dealer shall be required to certify by affidavit to the department the number of retail and wholesale units sold in the prior calendar year using the past motor vehicle sales history of the dealer as identified by department records of documentation approved by the department. If no sales history is available, the department shall issue a number of plates based on an estimated number of sales for the coming calendar year. The department may,

in its discretion, request documentation supporting sales history and may increase or decrease the number and classification of plates issued based on actual sales.

(c) This Code section shall not apply in any manner to mopeds as such term is defined in Code Section 40-1-1.

(d) The license plates issued pursuant to this Code section shall be revoked and confiscated upon a determination after a hearing that such dealer, distributor, ~~or~~ manufacturer, or manufacturer headquarters has unlawfully used such license plates in violation of this Code section.

(e) If a license plate issued pursuant to this Code section is lost or stolen, the dealer, manufacturer, distributor, manufacturer headquarters, or other party to whom the license plate was issued must immediately report the lost or stolen plate to local law enforcement agencies. If a replacement license plate is sought, the dealer, manufacturer, distributor, manufacturer headquarters, or other party to whom the license plate was issued shall file a notarized affidavit with the department requesting a replacement plate. Such affidavit shall certify under penalty of perjury that the license plate has been lost or stolen and that the loss has been reported to a local law enforcement agency.

(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 3.

Said title is further amended by revising paragraph (2) of Code Section 40-3-4, relating to exclusions from motor vehicle titling, as follows:

"(2) A vehicle owned by a manufacturer of or dealer in vehicles and held for sale, even though incidentally used on the highway or used for purpose of testing or demonstration; a vehicle owned by a manufacturer headquarters or its affiliate and registered and licensed pursuant to Code Section 40-2-38; a vehicle owned by a dealer in vehicles but used by any Georgia public or private school for driver education purposes; or a vehicle used by a manufacturer solely for testing; except that all dealers acquiring new vehicles after July 1, 1962, from a manufacturer for resale shall obtain such evidence of origin of title from the manufacturer as the commissioner shall by rule and regulation prescribe;"

SECTION 4.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising Code Section 48-2-44, relating to the penalty for failure to file a return or pay revenue held in trust for the state, as follows:

"48-2-44.

(a) In any instance in which any person willfully fails to file a report, return, or other information required by law or willfully fails to pay the commissioner any revenue held in trust for the state, ~~he~~ such person shall pay, in the absence of a specific statutory civil penalty for the failure, a penalty of 10 percent of the amount of revenue held in trust and not paid on or before the time prescribed by law, together with interest on the principal amount at the rate specified in Code Section 48-2-40 from the date the return should have been filed or the revenue held in trust should have been remitted until it is paid.

(b)(1) In any instance in which any person willfully fails, on or after July 1, 1981, to pay, within 90 days of the date when due, any ad valorem tax owed the state or any local government, ~~he~~ such person shall pay, in the absence of a specific statutory civil penalty for the failure, a penalty of 10 percent of the amount of tax due and not paid ~~on or before the time prescribed by law~~ at the time such penalty is assessed, together with interest as specified by law. This 10 percent penalty shall not, however, apply in the case of:

(A) Ad valorem taxes of $500.00 or less on homestead property as defined in Part 1 of Article 2 of Chapter 5 of this title; or

(B) With respect to tax year 1986 and future tax years, ad valorem taxes of any amount on homestead property as defined in Part 1 of Article 2 of Chapter 5 of this title, if the homestead property was during the tax year acquired by a new owner who did not receive a tax bill for the tax year and who immediately before acquiring the homestead property resided outside the State of Georgia and if the taxes are paid within one year following the due date.

(2) Any city or county authorized as of April 22, 1981, by statute or constitutional amendment to receive a penalty of greater than 10 percent for failure to pay an ad valorem tax is authorized to continue to receive that amount.

(3) With respect to all penalties and interest received by the tax commissioner on or after July 1, 1998, unless otherwise specifically provided for by general law, the tax commissioner shall distribute penalties collected and interest collected or earned as follows:

(A) Penalties collected for failure to return property for ad valorem taxation or for failure to pay ad valorem taxes, and interest earned by the tax commissioner on taxes collected but not yet disbursed, shall be paid into the county treasury in the same manner and at the same time the tax is collected and distributed to the county, and they shall remain the property of the county; and

(B) Interest collected on delinquent ad valorem taxes shall be distributed pro rata based on each taxing jurisdiction's share of the total tax on which the interest was computed.″

SECTION 5.

Said title is further amended by revising subsection (e) of Code Section 48-3-3, relating to issuance of tax executions, as follows:

″(e)(1)(A) 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 tax assessors. The bills or notices shall be mailed to the address of record as found in the county board of tax assessors' records.

(B)(i) In the discretion of the tax commissioner, a taxpayer shall have the option of receiving tax bills or subsequent delinquent notices via electronic transmission in lieu of, or in addition to, receiving a paper bill via first-class mail. The tax bill shall be transmitted to the taxpayer via e-mail, with delivery or read receipt requested, in portable document format using all e-mail addresses provided by the taxpayer, and the date shown on such transmission shall serve as a postmark. In any instance where such transmission proves undeliverable, the tax commissioner shall mail such tax bill or subsequent delinquent notice to the address of record as found in the county board of tax assessors' records.

(ii) The commissioner shall develop and make available to tax commissioners a suitable form for use by taxpayers in exercising the option to receive tax bills or subsequent delinquent notices via electronic transmission.

(2) A new ~~purchaser of property~~ owner 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~~ owner 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 6.

Said title is further amended by revising Code Section 48-3-27, relating to the penalty for obstructing levying officers, as follows:

″48-3-27.

(a) It is unlawful for any person knowingly and willfully to obstruct or hinder ~~the~~:

(1) The commissioner or his or her authorized representatives in the levy of a state tax execution~~.~~; or

(2) Any sheriff, ex officio sheriff, tax commissioner, or municipal levy officer in the levy of a state, county, or municipal tax execution.

(b) Any person who violates this Code section shall be guilty of a misdemeanor.″

SECTION 7.

Said title is further amended in Code Section 48-5-32, relating to publication of ad valorem tax rates, by revising subsection (b) as follows:

″(b)(1) Each levying authority and each recommending authority shall cause a report to be published in a newspaper of general circulation throughout the county and posted on such authority's website, if available:

~~(1)~~(A) At least ~~two weeks~~ one week prior to the certification of any recommending authority to the levying authority of such recommending authority's recommended school tax for the support and maintenance of education pursuant to Article VIII, Section VI, Paragraph I of the Constitution; and

~~(2)~~(B) At least ~~two weeks~~ one week prior to the establishment by each levying authority of the millage rates for ad valorem taxes for educational purposes and ad valorem taxes for purposes other than educational purposes for the current calendar year.

(2) Such reports shall be in a prominent location in such newspaper and shall not be included with legal advertisements, and such reports shall be posted in a prominent location on such authority's website, if available. The size and location of the advertisements shall not be grounds for contesting the validity of the levy.″

SECTION 8.

Said title is further amended in Code Section 48-5-148, relating to interest on unpaid ad valorem taxes, by revising paragraph (3) of subsection (a) as follows:

"(3) In the discretion of the tax commissioner, a taxpayer shall have the option of receiving notices of taxes due via electronic transmission in lieu of, or in addition to, receiving a paper bill via first-class mail. The tax bill shall be transmitted to the taxpayer via e-mail, with delivery or read receipt requested, in portable document format using all e-mail addresses provided by the taxpayer, and the date shown on such transmission shall serve as a postmark. In any instance where such transmission proves undeliverable, the tax commissioner shall mail a bill to the address of record as found in the county board of tax assessors' records. ~~After notices of taxes due are mailed out, each~~ Each taxpayer shall be afforded 60 days from date of postmark to make full payment of taxes due before the taxes shall bear interest as provided in this Code section. The time period for payment provided for by this ~~This~~ paragraph shall not apply in those counties in which a lesser time has been provided by law."

SECTION 9.

Said title is further amended in Code Section 48-5-205, relating to penalties for certain incomplete or improper tax digests, by revising subsection (a) as follows:

"(a) If a tax receiver or tax commissioner fails to have his or her digest completed and deposited by ~~August~~ September 1 in each year, unless excused by provisions of law or by the commissioner, ~~he~~ such tax receiver or tax commissioner shall forfeit one-tenth of his or her commissions for each week's delay. If the delay extends beyond 30 days, such tax receiver or tax commissioner ~~he~~ shall forfeit one-half of his or her commissions. If the delay extends beyond the time when the Governor and commissioner fix the rate percentage, ~~he~~ such tax receiver or tax commissioner shall forfeit all ~~his~~ such tax receiver's or tax commissioner's commissions."

SECTION 10.

Said title is further amended by revising Code Section 48-5-265, relating to joint county appraisal staffs and contracting for advice and assistance, as follows:

"48-5-265.

(a)(1) The governing authorities of any two or more ~~Contiguous Class I~~ counties may join together and ~~contract to~~ by intergovernmental agreement create a joint county property appraisal staff following consultation with the county boards of tax assessors of such counties. Under any such ~~contract~~ intergovernmental agreement, the parcels of real property within the ~~contracting~~ counties subject to the intergovernmental agreement shall be totaled, and the counties shall be deemed one county for purposes of determining the class of the counties, the resulting minimum staff requirements, and the amount of money to be received from the department. The costs of the joint county property appraisal staff

shall be ~~shared, each county's share to be based upon the ratio which the number of parcels of real property in each contracting county bears to the total number of parcels of real property in all the contracting counties. Any number of Class I counties may join together to create a joint county property appraisal staff~~ determined in the intergovernmental agreement.

(2) The governing authorities of any two or more counties may execute an intergovernmental agreement to provide for the sharing of one or more designated members of property appraisal staff following consultation with the county boards of tax assessors of such counties. The costs of such shared staff members shall be determined in the intergovernmental agreement.

(b) The governing authorities of any two or more counties may join together and by intergovernmental agreement ~~Each Class I county may contract with a contiguous county which has a minimum county property appraisal staff to~~ carry out this part following consultation with the county boards of tax assessors of such counties. ~~Counties contracting in this manner~~ All counties subject to an intergovernmental agreement under this subsection shall retain their separate character for the purpose of determining the class and minimum staff requirements for each ~~contracting~~ county.

(c)(1) Any ~~Each Class I~~ county, at its discretion, may enter into contracts with persons to render advice or assistance to the county board of tax assessors ~~and to the county board of equalization~~ in the assessment and equalization of taxes ~~and to perform such other ministerial duties as are necessary and appropriate to carry out this part~~, the establishment of property valuations, or the defense of such valuations. Such advice and assistance shall be in compliance with the laws of this state and the rules and regulations of the commissioner. Individuals performing services under such contracts shall complete satisfactorily such training courses as directed by the commissioner. The function of any person contracting to render such services shall be advisory or ministerial, ~~only~~ and the final decision as to the amount of assessments and the equalization of assessments shall be made by the county board of tax assessors ~~and the county board of equalization~~ and shall be set forth in the minutes of the county board of tax assessors.

(2) No contract entered into pursuant to paragraph (1) of this subsection shall contain any provision authorizing payment to any person contracted with, or to any person employed by any person contracted with, upon a percentage basis or upon any basis under which compensation is dependent or conditioned in any way upon increasing or decreasing the aggregate assessment of property in the county. Any contract or provision of a contract which is in violation of this paragraph ~~is~~ shall be void and unenforceable."

SECTION 11.

Said title is further amended by revising paragraph (8) of subsection (b) of Code Section 48-5-274, relating to the establishment of the equalized adjusted property tax index, as follows:

"(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. Any such sales price shall be adjusted upward or downward, in a manner consistent with the Standard on Ratio Studies published by the International Association of Assessing Officers or its successors, as reasonably needed to account for the effects of price changes reflected in the market between the date of sale and January 1 of the calendar year for which the equalized adjusted property tax digest is being prepared. Sales prices also shall be reduced by any portion thereof attributable to personal property, real property exempt from taxation, or standing timber included in the sales transaction. 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 12.

Said title is further amended in Code Section 48-5-299, relating to ascertainment of taxable property, assessments and penalties against unreturned property, and changing valuations established by appeal, by revising subsections (b) and (c) as follows:

"(b)~~(1) In all cases where unreturned property is assessed by the county board of tax assessors after the time provided by law for making tax returns has expired, the board~~

~~shall add to the amount of state and county taxes due a penalty of 10 percent of the amount of the tax due or, if the principal sum of the tax so assessed is less than $10.00 in amount, a penalty of $1.00. The penalty provided in this subsection shall be collected by the tax collector or the tax commissioner and in all cases shall be paid into the county treasury and shall remain the property of the county.~~

~~(2)(A) The provisions of paragraph (1) of this subsection to the contrary notwithstanding, this paragraph shall apply with respect to counties having a population of 600,000 or more according to the United States decennial census of 1970 or any future such census.~~

~~(B)~~ In all cases in which unreturned personal property is assessed by the board after the time provided by law for making tax returns has expired, the board shall add to the assessment of the property a penalty of 10 percent, which shall be included as a part of the taxable value for the year.

(c) ~~Real property,~~ When the value of ~~which was~~ real property is reduced or is unchanged from the value on the initial annual notice of assessment and such valuation is established ~~by an appeal~~ as the result of either an appeal decision rendered pursuant to Code Section 48-5-311 or stipulated by agreement of the parties to such an appeal that this subsection shall apply in any year, ~~that has not been returned by the taxpayer at a different value during the next two successive years,~~ the valuation so established by appeal decision or agreement may not be ~~changed~~ increased by the board of tax assessors during ~~such~~ the next two successive years, subject to the following exceptions: ~~for the sole purpose of changing the valuation established or decision rendered in an appeal to the board of equalization or superior court. In such cases, before changing such value or decision, the board of assessors shall first conduct an investigation into factors currently affecting the fair market value. The investigation necessary shall include, but not be limited to, a visual on-site inspection of the property to ascertain if there have been any additions, deletions, or improvements to such property or the occurrence of other factors that might affect the current fair market value. If a review to determine if there are any errors in the description and characterization of such property in the files and records of the board of tax assessors discloses any errors, such errors shall not be the sole sufficient basis for increasing the valuation during the two-year period.~~

(1) This subsection shall not apply to a valuation established by an appeal decision if the taxpayer or his or her authorized representative failed to attend the appeal hearing or provide the board of equalization, hearing officer, or arbitrator with some written evidence supporting the taxpayer's opinion of value;

(2) This subsection shall not apply to a valuation established by an appeal decision or agreement if the taxpayer files a return at a different valuation during the next two successive years;

(3) If the taxpayer files an appeal pursuant to Code Section 48-5-311 during the next two successive years, the board of equalization, hearing officer, or arbitrator may increase or decrease the value of the real property based on the evidence presented by the parties during the appeal process; and

(4) The board of tax assessors may increase or decrease the value of the real property if, after a visual on-site inspection of the property, it is found that there have been substantial additions, deletions, or improvements to such property or that there are errors in the board of tax assessors' records as to the description or characterization of the property, or the board of tax assessors finds an occurrence of other material factors that substantially affect the current fair market value of such property.″

SECTION 13.

Said title is further amended by revising Code Section 48-5-302, relating to the time for completion of revision and assessment of returns and submission of completed tax digest to the state revenue commissioner, as follows:

″48-5-302.

Each county board of tax assessors shall complete its revision and assessment of the returns of taxpayers in its respective county by July ~~1~~ 15 of each year, except that, in all counties providing for the collection and payment of ad valorem taxes in installments, such date shall be June 1 of each year. The tax receiver or tax commissioner shall then immediately forward one copy of the completed digest to the commissioner for examination and approval.″

SECTION 14.

Said title is further amended in Code Section 48-5-306, relating to annual notice of current assessment, by revising division (b)(2)(A)(iii), subparagraph (b)(2)(B), and subsection (d) as follows:

″(iii) For a parcel of nonhomestead property with a fair market value in excess of ~~$1 million~~ $750,000.00, or for one or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of Code Section 48-5-311 with an aggregate fair market value in excess of $750,000.00, to a hearing officer with appeal to the superior court.″

″(B) The notice shall also contain the following ~~statement~~ statements in bold print:

'The estimate of your ad valorem tax bill for the current year is based on the previous or most applicable year's millage rate and the fair market value contained in this notice. The actual tax bill you receive may be more or less than this estimate. This estimate may not include all eligible exemptions.'″

″(d) **Records and information availability.** Notwithstanding the provisions of Code Section 50-18-71, in the case of all public records and information of the county board of tax assessors pertaining to the appraisal and assessment of real property:

(1) The taxpayer may request, and the county board of tax assessors shall provide within ten business days, copies of such public records and information, including, but not limited to, a description of the methodology used by the board of tax assessors in setting the property's fair market value, all documents reviewed in making the assessment, the address and parcel identification number of all real property utilized as qualified comparable properties, and all factors considered in establishing the new assessment, at a uniform copying fee not to exceed 25¢ per page; ~~and~~

(2) No additional charges or fees may be collected from the taxpayer for reasonable search, retrieval, or other administrative costs associated with providing such public records and information; and

(3)(A) The superior courts of this state shall have jurisdiction in law and in equity to entertain actions against the board of tax assessors to enforce compliance with the provisions of this subsection.

(B) In any action brought to enforce the provisions of this subsection in which the court determines that either party acted without substantial justification either in not complying with this subsection or in instituting the litigation, the court shall, unless it finds that special circumstances exist, assess in favor of the complaining party reasonable attorney's fees and other litigation costs reasonably incurred. Whether the position of the complaining party was substantially justified shall be determined on the basis of the record as a whole which is made in the proceeding for which fees and other expenses are sought.″

SECTION 15.

Said title is further amended in Code Section 48-5-311, relating to county boards of equalization and ad valorem tax appeals, by revising subsections (a) through (e) and (h) through (o) and by adding new subsections to read as follows:

"(a) ~~**Establishment**~~ **Definition.**

As used in this Code section, the term 'appeal administrator' means the clerk of the superior court.

(a.1) **Appeal administrator.**

(1) The appeal administrator is vested with administrative authority in all other matters governing the conduct and business of the boards of equalization so as to provide oversight and supervision of such boards.

(2) It shall be the duty of the appeal administrator to receive any complaint filed with respect to the official actions of any member of a county board of equalization regarding technical competency, compliance with state law and regulations, or rude or unprofessional conduct or behavior toward any member of the public and to forward such complaint to the grand jury for investigation. Following an investigation, the grand jury shall issue a written report of its findings, which shall include such evaluations, judgments, and recommendations as it deems appropriate. The findings of the report may be grounds for removal of a member of the board of equalization by the grand jury for failure to perform the duties required under this Code section.

(a.2) **Establishment of boards of equalization.**

(1) Except as otherwise provided in this subsection, there is established in each county of ~~the~~ this state a county board of equalization to consist of three members and three alternate members appointed in the manner and for the term set forth in this Code section. In those counties having more than 10,000 parcels of real property, the county governing authority, by appropriate resolution adopted on or before November 1 of each year, may elect to have selected one additional county board of equalization for each 10,000 parcels of real property in the county or for any part of a number of parcels in the county exceeding 10,000 parcels.

(1.1) The grand jury shall be authorized to conduct a hearing following its receipt of the report of the appeal administrator under paragraph (2) of subsection (a.1) of this Code section and to remove one or more members of the board of equalization for failure to perform the duties required under this Code section.

(2) Notwithstanding any part of this subsection to the contrary, at any time the governing authority of a county makes a request to the grand jury of the county for additional alternate members of boards of equalization, the grand jury shall appoint the number of alternate members so requested to each board of equalization, such number not to exceed a maximum of 21 alternate members for each of the boards. The alternate members of the boards shall be duly qualified and authorized to serve on any of the boards of equalization of the county. The ~~grand jury of any such county~~ members of each board of equalization may designate a chairperson and two vice chairpersons of each such board

of equalization. ~~The chairperson and vice chairpersons shall be vested with full administrative authority in calling and conducting the business of the board.~~ The appeal administrator shall have administrative authority in all matters governing the conduct and business of the boards of equalization so as to provide oversight and supervision of such boards and scheduling of appeals. Any combination of members or alternate members of any such board of equalization of the county shall be competent to exercise the power and authority of the board. Any person designated as an alternate member of any such board of equalization of the county shall be competent to serve in such capacity as provided in this Code section upon appointment and taking of oath.

(3) Notwithstanding any provision of this subsection to the contrary, in any county of this state having a population of 400,000 or more according to the United States decennial census of 1990 or any future such census, the governing authority of the county, by appropriate resolution adopted on or before November 1 of each year, may elect to have selected one additional county board of equalization for each 10,000 parcels of real property in the county or for any part of a number of parcels in the county exceeding 10,000 parcels. In addition to the foregoing, any two members of a county board of equalization of the county may decide an appeal from an assessment, notwithstanding any other provisions of this Code section. The decision shall be in writing and signed by at least two members of the board of equalization; and, except for the number of members necessary to decide an appeal, the decision shall conform to the requirements of this Code section.

(4) The governing authorities of two or more counties may by intergovernmental agreement establish regional boards of equalization for such counties which shall operate in the same manner and be subject to all of the requirements of this Code section specified for county boards of equalization. The intergovernmental agreement shall specify the manner in which the members of the regional board shall be appointed by the grand jury of each of the counties, ~~and~~ shall specify which ~~clerk of the superior court~~ appeal administrator shall have oversight over and supervision of such regional board, and shall provide for funding from each participating county for the operations of the appeal administrator as required by subparagraph (d)(4)(C.1) of this Code section. All hearings and appeals before a regional board shall be conducted in the county in which the property which is the subject of the hearing or appeal is located.

(b) **Qualifications of board of equalization members.**

(1) Each person who is, in the judgment of the appointing grand jury, qualified and competent to serve as a grand juror, who is the owner of real property located in the county where such person is appointed to serve, or, in the case of a regional board of equalization, is the owner of real property located in any county in the region where such

person is appointed to serve, and who is at least a high school graduate shall be qualified, competent, and compellable to serve as a member or alternate member of the county board of equalization. No member of the governing authority of a county, municipality, or consolidated government; member of a county or independent board of education; member of the county board of tax assessors; employee of the county board of tax assessors; or county tax appraiser shall be competent to serve as a member or alternate member of the county board of equalization.

(2)(A) Each person seeking to be appointed as a member or alternate member of a county board of equalization shall, not later than immediately prior to the time of his or her appointment under subsection (c) of this Code section, file with the clerk of the superior court a uniform application form which shall be a public record. The Council of Superior Court Clerks of Georgia created under Code Section 15-6-50.2 shall design the form which indicates the applicant's education, employment background, experience, and qualifications for such appointment.

(B)(i) Within the first year after a member's initial appointment to the board of equalization ~~on or after January 1, 1981,~~ each member shall satisfactorily complete not less than 40 hours of instruction in appraisal and equalization processes and procedures, as prepared and required by the commissioner pursuant to Code Section 48-5-13.

(ii) On or after January 1, 2016, following the completion of each term of office, a member shall, within the first year of appointment to the subsequent term of office, complete satisfactorily not less than 20 hours of instruction in appraisal and equalization processes and procedures, as prepared and required by the commissioner for newly appointed members.

(iii) No person shall be eligible to hear an appeal as a member of a board of equalization unless, prior to hearing such appeal, such person shall satisfactorily complete the 20 hours of instruction in appraisal and equalization processes and procedures required under the applicable provisions of division (i) or (ii) of this subparagraph.

(iv) The failure of any member to fulfill the requirements of the applicable provisions of division (i) or (ii) of this subparagraph shall render ~~that~~ such member ineligible to serve on the board; and the vacancy created thereby shall be filled in the same manner as other vacancies on the board are filled.

~~(B)~~(C)(i) ~~No person shall be eligible to hear an appeal as a member of a board of equalization on or after January 1, 2011, unless prior to hearing such appeal, that person shall satisfactorily complete the 40 hours of instruction in appraisal and equalization processes and procedures required under subparagraph (A) of this~~

~~paragraph~~. Any person appointed to ~~such~~ a board of equalization shall be required to complete annually a continuing education requirement of at least eight hours of instruction in appraisal and equalization procedures, as prepared and required by the commissioner pursuant to Code Section 48-5-13.

(ii) The failure of any member to fulfill the requirements of division (i) of this subparagraph shall render ~~that~~ such member ineligible to serve on the board; and the vacancy created thereby shall be filled in the same manner as other vacancies on the board are filled.

(c) **Appointment of board of equalization members.**

(1) Except as provided in paragraph (2) of this subsection, each member and alternate member of the county board of equalization shall be appointed for a term of three calendar years next succeeding the date of such member or such alternate member's selection. Each term shall begin on January 1.

(2) The grand jury in each county at any term of court preceding November 1 of 1991 shall select three persons who are otherwise qualified to serve as members of the county board of equalization and shall also select three persons who are otherwise qualified to serve as alternate members of the county board of equalization. The three individuals selected as alternates shall be designated as alternate one, alternate two, and alternate three, with the most recent appointee being alternate number three, the next most recent appointee being alternate number two, and the most senior appointee being alternate number one. One member and one alternate shall be appointed for terms of one year, one member and one alternate shall be appointed for two years, and one member and one alternate shall be appointed for three years. Each year thereafter, the grand jury of each county shall select one member and one alternate for three-year terms.

(3) If a vacancy occurs on the county board of equalization, the individual designated as alternate one shall then serve as a member of the board of equalization for the unexpired term. If a vacancy occurs among the alternate members, the grand jury then in session or the next grand jury shall select an individual who is otherwise qualified to serve as an alternate member of the county board of equalization for the unexpired term. The individual so selected shall become alternate member three, and the other two alternates shall be redesignated appropriately.

(4) Within five days after the names of the members and alternate members of the county board or boards of equalization have been selected, the clerk of the superior court shall ~~issue and deliver~~ cause such appointees to appear before the clerk of the superior court for the purpose of taking and executing in writing the oath of office. The clerk of the superior court may utilize any means necessary for such purpose, including, but not limited to, telephonic or other communication, regular first-class mail, or issuance of and

delivery to the sheriff or deputy sheriff a precept containing the names of the persons so selected. Within ten days of receiving the precept, the sheriff or deputy sheriff shall cause the persons whose names are written on the precept to be served personally or by leaving the summons at their place of residence. The summons shall direct the persons named on the summons to appear before the clerk of the superior court on a date specified in the summons, which date shall not be later than December 15.

(5) Each member and alternate member of the county board of equalization, on the date prescribed for appearance before the clerk of the superior court and before entering on the discharge of such member and alternate member's duties, shall take and execute in writing before the clerk of the superior court the following oath:

'I, _____, agree to serve as a member of the board of equalization of the County of _____ and will decide any issue put before me without favor or affection to any party and without prejudice for or against any party. I will follow and apply the laws of this state. I also agree not to discuss any case or any issue with any person other than members of the board of equalization except at any appeal hearing. I shall faithfully and impartially discharge my duties in accordance with the Constitution and laws of this state, to the best of my skill and knowledge. So help me God.

_____

Signature of member or alternate member'

In addition to the oath of office prescribed in this paragraph, the presiding or chief judge of the superior court or ~~his or her designee~~ the appeal administrator shall charge each member and alternate member of the county board of equalization with the law and duties relating to such office.

(d) **Duties and powers of board of equalization members.**

(1) The county board of equalization shall hear and determine appeals from assessments and denials of homestead exemptions as provided in subsection (e) of this Code section.

(2) If, in the course of determining an appeal, the county board of equalization finds reason to believe that the property involved in an appeal or the class of property in which is included the property involved in an appeal is not uniformly assessed with other property included in the digest, the board shall request the respective parties to the appeal to present relevant information with respect to that question. If the board determines that uniformity is not present, the board may order the county board of tax assessors to take such action as is necessary to obtain uniformity, except that, when a question of county-wide uniformity is considered by the board, the board may recommend a partial or total county-wide revaluation only upon a determination by a majority of all the members of the board that the clear and convincing weight of the evidence requires such

action. The board of equalization may act pursuant to this paragraph whether or not the appellant has raised the issue of uniformity.

(3) The board shall establish procedures which comply strictly with the regulations promulgated by the commissioner pursuant to subparagraph ~~(e)(5)(B)~~ (e)(1)(D) of this Code section for the conducting of appeals before the board. The procedures shall be entered into the minutes of the board, and a copy of the procedures shall be made available to any individual upon request.

(4)(A) The ~~clerk of the superior court~~ appeal administrator shall have oversight over and supervision of all boards of equalization of the county and hearing officers. This oversight and supervision shall include, but not be limited to, requiring appointment of members of county boards of equalization by the grand jury; giving the notice of the appointment of members and alternates of the county board of equalization by the county grand jury as required by Code Section 15-12-81; collecting the names of possible appointees; collecting information from possible appointees as to their qualifications; presenting the names of the possible appointees to the county grand jury; processing the appointments as required by paragraph (4) of subsection (c) of this Code section, including administering the oath of office to the newly appointed members and alternates of the county board of equalization as required by paragraph (5) of such subsection; instructing the newly appointed members and alternates as to the training they must receive and the operations of the county board of equalization; presenting to the grand jury of the county the names of possible appointees to fill vacancies as provided in paragraph (3) of such subsection; maintaining a roster of board members and alternates, maintaining a record showing that the board members and alternates completed training, keeping attendance records of board members and alternates for the purpose of payment for service, and maintaining the uniform application forms and keeping a record of the appointment dates of board members and alternates and their terms in office; and informing the county board of equalization that it must establish by regulation procedures for conducting appeals before the board as required by paragraph (3) of this subsection ~~(d) of this Code section~~. Oversight and supervision shall also include the scheduling of board hearings, assistance in scheduling hearings before hearing officers, and giving notice of the date, time, and place of hearings to the taxpayers and the county board of tax assessors and giving notice of the decisions of the county board of equalization or hearing officer to the taxpayer and county board of tax assessors as required by division (e)(6)(D)(i) of this Code section.

(B) The county governing authority shall provide any resources to the ~~clerk of superior court~~ appeal administrator that are required to be provided by paragraph (7) of subsection (e) of this Code section.

(C) The county governing authority shall provide to the ~~clerk of superior court~~ appeal administrator facilities and secretarial and clerical help for appeals pursuant to subsection (e.1) of this Code section.

(C.1) The operations of the appeal administrator under this Code section shall, for budgeting purposes, constitute a distinct budget unit within the county budget that is separate from the operations of the clerk of the superior court. The appeal administrator budget unit shall contain a separate line item for the compensation of the appeal administrator for the performance of duties required under this Code section as well as separate lines items for resources, facilities, and personnel as specified under subparagraphs (B) and (C) of this paragraph.

(D) The ~~clerk of superior court~~ appeal administrator shall maintain any county records of all notices to the taxpayer and the taxpayer's attorney, of certified receipts of returned or unclaimed mail, and from the hearings before the board of equalization and before hearing officers ~~until~~ for 12 months after the deadline to file any appeal to the superior court expires. If an appeal is not filed to the superior court, the ~~clerk of superior court~~ appeal administrator is authorized to properly destroy any records from the hearings before the county board of equalization or hearing officers but shall maintain records of all notices to the taxpayer and the taxpayer's attorney and certified receipts of returned or unclaimed mail for 12 months. If an appeal to the superior court is filed, the ~~clerk of superior court~~ appeal administrator shall file such appeal and records in the civil action that is considered open by the clerk of superior court for such appeal, and such records shall become part of the record on appeal in accordance with paragraph (2) of subsection (g) of this Code section.

(e) **Appeal.**

(1)(A) Any taxpayer or property owner as of the last date for filing an appeal may elect to file an appeal from an assessment by the county board of tax assessors to ~~either~~:

(i) The county board of equalization as to matters of taxability, uniformity of assessment, and value, and, for residents, as to denials of homestead exemptions pursuant to paragraph (2) of this subsection;

(ii) An arbitrator as to matters of value pursuant to subsection (f) of this Code section; ~~or~~

(iii) A hearing officer as to matters of value and uniformity of assessment for a parcel of nonhomestead real property with a fair market value in excess of ~~$1 million~~ $750,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, and any contiguous nonhomestead real property owned by the same taxpayer, pursuant to subsection (e.1) of this Code section; or

(iv) A hearing officer as to matters of values or uniformity of assessment of one or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of this Code section with an aggregate fair market value in excess of $750,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, pursuant to subsection (e.1) of this Code section.

(A.1) The commissioner shall establish by rule and regulation a uniform appeal form that the taxpayer may use. Such uniform appeal form shall require the initial assertion of a valuation of the property by the taxpayer.

(B) In addition to the grounds enumerated in subparagraph (A) of this paragraph, any taxpayer having property that is located within a municipality, the boundaries of which municipality extend into more than one county, may also appeal from an assessment on such property by the county board of tax assessors to the county board of equalization, ~~or~~ to a hearing officer, or to arbitration as to matters of uniformity of assessment of such property with other properties located within such municipality, and any uniformity adjustments to the assessment that may result from such appeal shall only apply for municipal ad valorem tax purposes.

(B.1) The taxpayer or his or her agent or representative may submit in support of his or her appeal an appraisal given, signed, and certified as such by a real property appraiser as classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board which was performed not later than nine months prior to the date of assessment. The board of tax assessors shall consider the appraisal upon request. Within 45 days of the receipt of the taxpayer's appraisal, the board of tax assessors shall notify the taxpayer or his or her agent or representative of acceptance of the appraisal or shall notify the taxpayer or his or her agent or representative of the reasons for rejection.

(B.2) The taxpayer or his or her agent or representative may submit in support of his or her appeal the most current report of the sales ratio study for the county conducted pursuant to Code Section 48-5-274. The board of tax assessors shall consider such sales ratio study upon request of the taxpayer or his or her agent or representative.

(B.3) Any assertion of value by the taxpayer on the uniform appeal form made to the board of tax assessors shall be subject to later amendment or revision by the taxpayer by submission of written evidence to the board of tax assessors.

(B.4) If more than one property of a taxpayer is under appeal, the board of equalization, arbitrator, or hearing officer, as the case may be, shall, upon request of the taxpayer, consolidate all such appeals in one hearing and shall announce separate decisions as to each parcel or item of property. Any appeal from such a consolidated hearing to the superior court as provided in subsection (g) of this Code section shall

constitute a single civil action and, unless the taxpayer specifically so indicates in the taxpayer's notice of appeal, shall apply to all such parcels or items of property.

(B.5) Within ten days of a final determination of value under this Code section and the expiration of the 30 day appeal period provided by subsection (g) of this Code section, or, as otherwise provided by law, with no further option to appeal, the county board of tax assessors shall forward such final determination of value to the tax commissioner.

(C) Appeals to the county board of equalization shall be conducted in the manner provided in paragraph (2) of this subsection. Appeals to a hearing officer shall be conducted in the manner specified in subsection (e.1) of this Code section. Appeals to an arbitrator shall be conducted in the manner specified in subsection (f) of this Code section. Such appeal proceedings shall be conducted between the hours of 8:00 A.M. and 7:00 P.M. on a business day. Following the notification of the taxpayer of the date and time of such taxpayer's scheduled hearing, the taxpayer shall be authorized to exercise a one-time option of changing the date and time of the taxpayer's scheduled hearing to a day and time acceptable to the taxpayer and the county board of tax assessors. The ~~clerk of the superior court~~ appeal administrator shall grant additional extensions to the taxpayer or the county board of tax assessors for good cause shown, or by agreement of the parties.

(D) The commissioner, by regulation, shall adopt uniform procedures and standards which shall be followed by county boards of equalization, hearing officers, and arbitrators in determining appeals. Such rules shall be updated and revised periodically and reviewed no less frequently than every five years. The commissioner shall publish and update annually a manual for use by county boards of equalization, arbitrators, and hearing officers.

(2)(A) **Appeal to board of equalization.** An appeal shall be effected by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, ~~or~~ by mailing to, or by filing with the county board of tax assessors a notice of appeal within 45 days from the date of mailing the notice pursuant to Code Section 48-5-306. A written objection to an assessment of real property received by a county board of tax assessors stating the location of the real property and the identification number, if any, contained in the tax notice shall be deemed a notice of appeal by the taxpayer under the grounds listed in paragraph (1) of this subsection. A written objection to an assessment of personal property received by a county board of tax assessors giving the account number, if any, contained in the tax notice and stating that the objection is to an assessment of personal property shall be deemed a notice of appeal by the taxpayer under the grounds listed in paragraph (1) of this subsection. The county board of tax assessors shall review the valuation or denial in question, and, if

any changes or corrections are made in the valuation or decision in question, the board shall send a notice of the changes or corrections to the taxpayer pursuant to Code Section 48-5-306. Such notice shall also explain the taxpayer's right to appeal to the county board of equalization as provided in subparagraph (C) of this paragraph if the taxpayer is dissatisfied with the changes or corrections made by the county board of tax assessors.

(B) If no changes or corrections are made in the valuation or decision, the county board of tax assessors shall send written notice thereof to the taxpayer, to any authorized agent or representative of the taxpayer who the taxpayer has requested that such notice be sent, and to the county board of equalization which notice shall also constitute the taxpayer's appeal to the county board of equalization without the necessity of the taxpayer's filing any additional notice of appeal to the county board of tax assessors or to the county board of equalization. The county board of tax assessors shall also send or deliver all necessary papers to the county board of equalization. If, however, the taxpayer and the county board of tax assessors execute a signed agreement as to valuation, the appeal shall terminate as of the date of such signed agreement.

(C) If changes or corrections are made by the county board of tax assessors, the board shall notify the taxpayer in writing of such changes. The commissioner shall develop and make available to county boards of tax assessors a suitable form which shall be used in such notification to the taxpayer. The notice shall be sent by regular mail properly addressed to the address or addresses the taxpayer provided to the county board of tax assessors and to any authorized agent or representative of the taxpayer who the taxpayer has requested that such notice be sent. If the taxpayer is dissatisfied with such changes or corrections, the taxpayer shall, within 30 days of the date of mailing of the change notice, ~~institute an~~ notify the county board of tax assessors to continue the taxpayer's appeal to the county board of ~~tax assessors~~ equalization by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, or by mailing to or filing with the county board of tax assessors a written notice of ~~appeal~~ continuance. The county board of tax assessors shall send or deliver the notice of appeal and all necessary papers to the county board of equalization.

(D) The written notice to the taxpayer required by this paragraph shall contain a statement of the grounds for rejection of any position the taxpayer has asserted with regard to the valuation of the property. No addition to or amendment of such grounds as to such position shall be permitted before the county board of equalization.

(3)(A) In ~~any~~ each year ~~in which no county-wide revaluation is implemented~~, the county board of tax assessors shall ~~make its determination~~ review the appeal and notify the taxpayer of any corrections or changes within 180 days after receipt of the

taxpayer's notice of appeal. If the county board of tax assessors fails to respond to the taxpayer within such 180 day period ~~during such year~~, the ~~appeal shall be automatically referred to the county board of equalization~~ property valuation asserted by the taxpayer on the property tax return or the taxpayer's notice of appeal shall become the assessed fair market value for the taxpayer's property for the tax year under appeal. If no such assertion of value was submitted by the taxpayer, the appeal shall be forwarded to the county board of equalization.

(B) In any county in which the number of appeals exceeds a number equal to or greater than 3 percent of the total number of parcels in the county or the sum of the current assessed value of the parcels under appeal is equal to or greater than 3 percent of the gross tax digest of the county, the county board of tax assessors shall be granted an additional 180 day period to make its determination and notify the taxpayer. The county board of tax assessors shall notify each affected taxpayer of the additional 180 day review period provided in this subparagraph by mail or electronic communication, including posting notice on the website of the county board of tax assessors if such a website is available. Such additional period shall commence immediately following the last day of the 180 days provided for under subparagraph (A) of this paragraph. If the county board of tax assessors fails to review the appeal and notify the taxpayer of any corrections or changes not later than the last day of such additional 180 day period, the most recent property tax valuation asserted by the taxpayer on the property tax return or on appeal shall prevail and shall be deemed the value established on such appeal unless a time extension is granted under subparagraph (C) of this paragraph. If no such assertion of value was submitted by the taxpayer, the appeal shall be forwarded to the county board of equalization.

(C) Upon a sufficient showing of good cause by reason of unforeseen circumstances proven to the commissioner prior to the expiration of the additional 180 day period provided for under subparagraph (B) of this paragraph, the commissioner shall be authorized to provide for a time extension beyond the end of such additional 180 day period. The duration of any such time extension shall be specified in writing by the commissioner and shall also be posted on the website of the county board of tax assessors if such a website is available. If the county board of tax assessors fails to make its review and notify the taxpayer and the taxpayer's attorney not later than the last day of such time extension, the most recent property tax valuation asserted by the taxpayer on the property tax return or on the taxpayer's notice of appeal shall prevail and shall be deemed the value established on such appeal. If no such assertion of value was submitted by the taxpayer, the appeal shall be forwarded to the county board of equalization. In addition, the commissioner shall be authorized to require additional

training or require such other remediation as the commissioner may deem appropriate for failure to meet the deadline imposed by the commissioner under this subparagraph.

(4) The determination by the county board of tax assessors of questions of factual characteristics of the property under appeal, as opposed to questions of value, shall be prima-facie correct in any appeal to the county board of equalization. However, the board of tax assessors shall have the burden of proving its opinions of value and the validity of its proposed assessment by a preponderance of evidence.

(5) The county board of equalization shall determine all questions presented to it on the basis of the best information available to the board.

(6)(A) Within 15 days of the receipt of the notice of appeal, the county board of equalization shall set a date for a hearing on the questions presented and shall so notify the taxpayer and the county board of tax assessors in writing. Such notice shall be sent by first-class mail to the taxpayer and to any authorized agent or representative of the taxpayer who the taxpayer has requested that such notice be sent. Such notice shall be transmitted by e-mail to the county board of tax assessors if such board has adopted a written policy consenting to electronic service, and, if it has not, then such notice shall be sent to such board by first-class mail or intergovernmental mail. Such written notice shall advise each party that he or she may request a list of witnesses, documents, or other written evidence to be presented at the hearing by the other party, which shall be provided to the requesting party not less than seven days prior to the time of the hearing. Any failure to comply with this requirement shall be grounds for an automatic continuance or for exclusion of such witness, documents, or other written evidence. A taxpayer may appear before the board of equalization concerning any appeal in person, by his or her authorized agent or representative, or both. The taxpayer shall specify in writing to the board of equalization the name of any such agent or representative prior to any appearance by the agent or representative before the board.

(B) Within 30 days of the date of notification to the taxpayer of the hearing required in this paragraph but not earlier than 20 days from the date of such notification to the taxpayer, the county board of equalization shall hold such hearing to determine the questions presented.

(C) If more than one ~~contiguous~~ property of a taxpayer is under appeal, the board of equalization shall, upon request of the taxpayer, consolidate all such appeals in one hearing and ~~render~~ announce separate decisions as to each parcel or item of property. Any appeal from such a consolidated board of equalization hearing to the superior court as provided in this subsection shall constitute a single civil action, and, unless the taxpayer specifically so indicates in his or her notice of appeal, shall apply to all such parcels or items of property.

(D)(i) The board of equalization shall ~~render~~ announce its decision on each appeal at the conclusion of the hearing ~~under~~ held in accordance with subparagraph (B) of this paragraph before proceeding with another hearing. The decision of the county board of equalization shall be in writing, shall be signed by each member of the board, shall specifically decide each question presented by the appeal, shall specify the reason or reasons for each such decision as to the specific issues of taxability, uniformity of assessment, value, or denial of homestead exemptions depending upon the specific issue or issues raised by the taxpayer in the course of such taxpayer's appeal, shall state that with respect to the appeal no member of the board is disqualified from acting by virtue of subsection (j) of this Code section, and shall certify the date on which notice of the decision is given to the parties. Notice of the decision shall be delivered by hand to each party, with written receipt, or given to each party by sending a copy of the decision by registered or certified mail or statutory overnight delivery to the appellant and by filing the original copy of the decision with the county board of tax assessors. Each of the three members of the county board of equalization must be present and must participate in the deliberations on any appeal. A majority vote shall be required in any matter. All three members of the board ~~must~~ shall sign the decision indicating their vote.

(ii) Except as otherwise provided in subparagraph (g)(4)(B) of this Code section, the county board of tax assessors shall use the valuation of the county board of equalization in compiling the tax digest for the county for the year in question and shall indicate such valuation as the previous year's value on the property tax notice of assessment of such taxpayer for the immediately following year rather than substituting the valuation which was changed by the county board of equalization.

(iii)(I) If the county's tax bills are issued before an appeal has been finally determined, the county board of tax assessors shall specify to the county tax commissioner the lesser of the valuation in the last year for which taxes were finally determined to be due on the property or 85 percent of the current year's value, unless the property in issue is homestead property and has been issued a building permit and structural improvements have occurred, or structural improvements have been made without a building permit, in which case, it shall specify 85 percent of the current year's valuation as set by the county board of tax assessors. Depending on the circumstances of the property, this amount shall be the basis for a temporary tax bill to be issued; provided, however, that a nonhomestead owner of a single property valued at $2 million or more may elect to pay the temporary tax bill which specifies 85 percent of the current year's valuation; or, such owner may elect to pay the amount of the difference between the 85 percent tax bill based on the current

year's valuation and the tax bill based on the valuation from the last year for which taxes were finally determined to be due on the property in conjunction with the amount of the tax bill based on valuation from the last year for which taxes were finally determined to be due on the property, to the tax commissioner's office. Only the amount which represents the difference between the tax bill based on the current year's valuation and the tax bill based on the valuation from the last year for which taxes were finally determined to be due will be held in an escrow account by the tax commissioner's office. Once the appeal is concluded, the escrowed funds shall be released by the tax commissioner's office to the prevailing party. The taxpayer may elect to pay the temporary tax bill in the amount of 100 percent of the current year's valuation if no substantial property improvement has occurred. The county tax commissioner shall have the authority to adjust such tax bill to reflect the 100 percent value as requested by the taxpayer. Such tax bill shall be accompanied by a notice to the taxpayer that the bill is a temporary tax bill pending the outcome of the appeal process. Such notice shall also indicate that upon resolution of the appeal, there may be additional taxes due or a refund issued.

(II) For the purposes of this Code section, any final value that causes a reduction in taxes and creates a refund that is owed to the taxpayer shall be paid by the tax commissioner to the taxpayer, entity, or transferee who paid the taxes with interest, as provided in subsection (m) of this Code section.

(III) For the purposes of this Code section, any final value that causes an increase in taxes and creates an additional billing shall be paid to the tax commissioner as any other tax due along with interest, as provided in subsection (m) of this Code section.

(7) The ~~clerk of the superior court~~ appeal administrator shall furnish the county board of equalization necessary facilities and ~~secretarial and clerical~~ administrative help. The ~~clerk of the superior court~~ appeal administrator shall see that the records and information of the county board of tax assessors are transmitted to the county board of equalization. The county board of equalization ~~must~~ shall consider in the performance of its duties the information furnished by the county board of tax assessors and the taxpayer.

~~(8) The taxpayer or his or her agent or representative may submit in support of his or her appeal the most current report of the sales ratio study for the county conducted pursuant to Code Section 48-5-274. The board must consider the study upon any such request.~~

~~(9)~~(8) If at any time during the appeal process to the county board of equalization and after certification by the county board of tax assessors to the county board of equalization, the county board of tax assessors and the taxpayer mutually agree in writing on the fair market value, then the county board of tax assessors, or the county board of

equalization, as the case may be, shall enter the agreed amount in all appropriate records as the fair market value of the property under appeal, and the appeal shall be concluded. The provisions in subsection (c) of Code Section 48-5-299 shall apply to the valuation unless otherwise waived by both parties.

(e.1) **Appeals to hearing officer.**

(1)(A) For any dispute involving the value or uniformity of a parcel of nonhomestead real property with a fair market value in excess of ~~$1 million~~ $750,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, at the option of the taxpayer, an appeal may be submitted to a hearing officer in accordance with this subsection. If such taxpayer owns nonhomestead real property contiguous to such qualified nonhomestead real property, at the option of the taxpayer, such contiguous property may be consolidated with the qualified property for purposes of the hearing under this subsection.

(B)(i) As used in this subparagraph, the term 'wireless property' means tangible personal property or equipment used directly for the provision of wireless services by a provider of wireless services which is attached to or is located underneath a wireless cell tower or at a network data center location but which is not permanently affixed to such tower or data center so as to constitute a fixture.

(ii) For any dispute involving the values or uniformity of one or more account numbers of wireless property as defined in this subparagraph with an aggregate fair market value in excess of $750,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, at the option of the taxpayer, an appeal may be submitted to a hearing officer in accordance with this subsection.

(2) Individuals desiring to serve as hearing officers and who are either state certified general real property appraisers or state certified residential real property appraisers as classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board for real property appeals or are designated appraisers by a nationally recognized appraiser's organization for wireless property appeals shall complete and submit an application, a list of counties the hearing officer is willing to serve, disqualification questionnaire, and resume and be approved by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board to serve as a hearing officer. Such board shall annually publish a list of qualified and approved hearing officers for Georgia.

(3) The ~~clerk of the superior court~~ appeal administrator shall furnish any hearing officer so selected the necessary facilities.

(4) An appeal shall be effected by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, or by filing with the county board of tax assessors a notice of appeal to a hearing officer within 45 days from the date

of mailing the notice of assessment pursuant to Code Section 48-5-306. A written objection to an assessment of real property or wireless property received by a county board of tax assessors stating the taxpayer's election to appeal to a hearing officer and showing the location of the real property or wireless property contained in the assessment notice shall be deemed a notice of appeal by the taxpayer.

(5) The county board of tax assessors may for no more than 90 days review the taxpayer's written appeal, and if changes or corrections are made by the county board of tax assessors, the board shall notify the taxpayer in writing of such changes. ~~If within~~ Within 30 days of the county board of tax assessors' mailing of such notice, the taxpayer ~~notifies~~ may notify the county board of tax assessors in writing that ~~such~~ the changes or corrections made by the county board of tax assessors are not acceptable, in which case, the county board of tax assessors shall, within 30 days of the date of mailing of such taxpayer's notification, send or deliver ~~the notice of appeal and~~ all necessary papers to the ~~clerk of the superior court~~ appeal administrator and mail a copy to the taxpayer or, alternatively, forward the appeal to the board of equalization if so elected by the taxpayer and such election is included in the taxpayer's notification that the changes are not acceptable. If, after review, the county board of tax assessors determines that no changes or corrections are warranted, the county board of tax assessors shall notify the taxpayer of such decision. The taxpayer may elect to forward the appeal to the board of equalization by notifying the county board of tax assessors within 30 days of the mailing of the county board of tax assessor's notice of no changes or corrections. Upon the expiration of 30 days following the mailing of the county board of tax assessors' notice of no changes or corrections, the county board of tax assessors shall certify the notice of appeal and send or deliver all necessary papers to the appeal administrator for the appeal to the hearing officer, or board of equalization if elected by the taxpayer, and mail a copy to the taxpayer.

(6)(A) The ~~clerk of superior court~~ appeal administrator shall randomly select from such list a hearing officer who shall have experience or expertise in hearing or appraising the type of property that is the subject of appeal to hear the appeal, unless the taxpayer and the county board of tax assessors mutually agree upon a hearing officer from such list. The appeal administrator shall notify the taxpayer and the taxpayer's attorney in compliance with subsection (o) of this Code section of the name of the hearing officer and transmit a copy of the hearing officer's disqualification questionnaire and resume provided for under paragraph (2) of this subsection. The hearing officer, in conjunction with all parties to the appeal, shall set a time and place to hear evidence and testimony from both parties. The hearing shall take place in the county where the property is located, or such other place as mutually agreed to by the parties and the hearing officer.

The hearing officer shall provide electronic or written notice to the parties personally or by registered or certified mail or statutory overnight delivery not less than ten days before the hearing. Such written notice shall advise each party that documents or other written evidence to be presented at the hearing by a party must be provided to the other party not less than seven days prior to the time of the hearing and that any failure to comply with this requirement shall be grounds for an automatic continuance or for exclusion of such documents or other written evidence.

(B) If the appeal administrator, after a diligent search, cannot find a qualified hearing officer who is willing to serve, the appeal administrator shall transfer the certification of the appeal to the county or regional board of equalization and notify the taxpayer and the taxpayer's attorney in compliance with subsection (o) of this Code section and the county board of tax assessors of the transmittal of such appeal.

(7) The hearing officer shall swear in all witnesses, perform the powers, duties, and authority of a county or regional board of equalization, and determine the fair market value of the real property or wireless property based upon the testimony and evidence presented during the hearing. Any issues other than fair market value and uniformity raised in the appeal shall be preserved for appeal to the superior court. The board of tax assessors shall have the burden of proving its opinion of value and the validity of its proposed assessment by a preponderance of evidence. At the conclusion of the hearing, the hearing officer shall notify both parties of the decision verbally and shall either send ~~the taxpayer~~ both parties the decision in writing or deliver the decision by hand to each party, with written receipt.

(8) The taxpayer or the board of tax assessors may appeal the decision of the hearing officer to the superior court as provided in subsection (g) of this Code section.

(9) If, at any time during the appeal under this subsection, the taxpayer and the county board of tax assessors execute a signed written agreement on the fair market value and any other issues raised~~,~~: the appeal shall terminate as of the date of such signed agreement; ~~and~~ the fair market value as set forth in such agreement shall become final; and subsection (c) of Code Section 48-5-299 shall apply. ~~The provisions contained in this paragraph may be waived at any time by written consent of the taxpayer and the county board of tax assessors.~~

(9.1) The provisions contained in this subsection may be waived at any time by written consent of the taxpayer and the county board of tax assessors.

(10) Each hearing officer shall be compensated by the county for time expended in considering appeals. The compensation shall be paid at a rate of not less than $75.00 per hour for the first hour and not less than $25.00 per hour for each hour thereafter as determined by the county governing authority or as may be agreed upon by the parties

with the consent of the county governing authority. Compensation pursuant to this paragraph shall be paid from the county treasury upon certification by the hearing officer of the hours expended in hearing of appeals. The attendance at any training required by the commissioner shall be part of the qualifications of the hearing officer, and any nominal cost of such training shall be paid by the hearing officer. ~~If the clerk of the superior court, after diligent search, cannot find a qualified hearing officer who is willing to serve, the clerk of the superior court shall notify the county board of tax assessors in writing. The county board of tax assessors shall then certify the appeal to the county or regional board of equalization.~~

(11) The commissioner shall promulgate rules and regulations for the proper administration of this subsection, including, but not limited to, ~~a uniform appeal form;~~ qualifications; training, including an eight-hour course on Georgia property law, Georgia evidence law, preponderance of evidence, burden of proof, credibility of the witnesses, and weight of evidence; disqualification questionnaire; selection; removal; an annual continuing education requirement of at least four hours of instruction in recent legislation, current case law, and updates on appraisal and equalization procedures, as prepared and required by the commissioner; and any other matters necessary to the proper administration of this subsection. The failure of any hearing officer to fulfill the requirements of this paragraph shall render such officer ineligible to serve. Such rules and regulations shall also include a uniform appeal form which shall require the initial assertion of a valuation of the property by the taxpayer. Any such assertion of value shall be subject to later revision by the taxpayer based upon written evidence. The commissioner shall seek input from all interested parties prior to such promulgation.

(12) If the county's tax bills are issued before the hearing officer has rendered his or her decision on property which is on appeal, a temporary tax bill shall be issued in the same manner as otherwise required under division (e)(6)(D)(iii) of this Code section.

(13) Upon determination of the final value, the temporary tax bill shall be adjusted as required under division (e)(6)(D)(iii) of this Code section."

"(h) **Recording of interviews or hearings**.

(1) In the course of any assessment, appeal, or arbitration, or any related proceeding, the taxpayer shall be entitled to: ~~make recordings of any interview with any officer or employee of the taxing authority relating to the valuation of the taxpayer's property subject to such assessment, appeal, arbitration, or related proceeding, at the taxpayer's expense and with equipment provided by the taxpayer, and no such officer or employee may refuse to participate in an interview relating to such valuation for reason of the taxpayer's choice to record such interview.~~

(A) Have an interview with an officer or employee, that is authorized to discuss tax assessments of the board of tax assessors relating to the valuation of the taxpayer's property subject to such assessment, appeal, arbitration, or related proceeding, and the taxpayer may record the interview at the taxpayer's expense and with equipment provided by the taxpayer, and no such officer or employee of the board of tax assessors may refuse to participate in an interview relating to such valuation for reason of the taxpayer's choice to record such interview; and

(B) Record, at the taxpayer's expense and with equipment provided by the taxpayer, all proceedings before the board of equalization or any hearing officer.

(2) The interview referenced in subparagraph (A) of paragraph (1) of this subsection shall be granted to the taxpayer within 30 calendar days from the postmark date of the taxpayer's written request for the interview, and the interview shall be conducted in the office of the board of assessors. The time and date for the interview, within such 30 calendar day period, shall be mutually agreed upon between the taxpayer and the taxing authority. The taxing authority may extend the time period for the interview an additional 30 days upon written notification to the taxpayer.

(3) The superior courts of this state shall have jurisdiction to enforce the provisions of this subsection directly and without the issue being first brought to any administrative procedure or hearing. The taxpayer shall be awarded damages in the amount of $100.00 per occurrence where the taxpayer requested the interview, in compliance with this subsection, and the board of assessors failed to timely comply; and, the taxpayer shall be entitled to recover reasonable attorney's fees and expenses of litigation incurred in any action brought to compel such interview.

(i) **Alternate members of boards of equalization.**

(1) Alternate members of the county board of equalization in the order in which selected shall serve:

~~(1)~~(A) As members of the county board of equalization in the event there is a permanent vacancy on the board created by the death, ineligibility, removal from the county, or incapacitating illness of a member or by any other circumstances. An alternate member who fills a permanent vacancy shall be considered a member of the board for the remainder of the unexpired term; or

~~(2)~~(B) In any appeal ~~with respect to which a member of the board is disqualified and shall be considered a member of the board; or~~ for which an alternate member is selected for service by the appeal administrator.

~~(3) In any appeal at a regularly scheduled or called meeting in the absence of a member and shall be considered a member of the board.~~

(2) A hearing panel shall consist of no more than three members at any time, one of whom shall serve as the presiding member for the purpose of the hearing.

(j) **Disqualification.**

(1) No member of the county board of equalization and no hearing officer shall serve with respect to any appeal concerning which he or she would be subject to a challenge for cause if he or she were a member of a panel of jurors in a civil case involving the same subject matter.

(2) The parties to an appeal to the county board of equalization or to a hearing officer shall file in writing with the appeal, in the case of the person appealing, or, in the case of the county board of tax assessors, with the certificate transmitting the appeal, questions relating to the disqualification of members of the county board of equalization or hearing officer. Each question shall be phrased so that it can be answered by an affirmative or negative response. The members of the county board of equalization or hearing officer shall, in writing under oath within two days of their receipt of the appeal, answer the questions and any question which may be adopted pursuant to subparagraph (e)(1)(D) of this Code section. Answers of the county board of equalization or hearing officers shall be part of the decision of the board or hearing officer and shall be served on each party by first-class mail. Determination of disqualification shall be made by the judge of the superior court upon the request of any party when the request is made within two days of the response of the board or hearing officer to the questions. The time prescribed under subparagraph (e)(6)(A) of this Code section shall be tolled pending the determination by the judge of the superior court.

(k) **Compensation of board of equalization members.**

(1) Each member of the county board of equalization shall be compensated by the county per diem for time expended in considering appeals. The compensation shall be paid at a rate of not less than $25.00 per day and shall be determined by the county governing authority. The attendance at required approved appraisal courses shall be part of the official duties of a member of the board, and he or she shall be paid for each day in attendance at such courses and shall be allowed reasonable expenses necessarily incurred in connection with such courses. Compensation pursuant to this ~~subsection~~ paragraph shall be paid from the county treasury upon certification by the member of the days expended in consideration of appeals or attending approved appraisal courses.

(2) Each member of the county board of equalization who participates in online training provided by the department shall be compensated by the county at the rate of $25.00 per day for each eight hours of completed training. A member shall certify under oath and file an affidavit with the appeal administrator stating the number of hours required to complete such training and the number of hours which were actually completed. The

appeal administrator shall review the affidavit and, following approval thereof, shall notify the county governing authority. The Council of Superior Court Clerks of Georgia shall develop and make available an appropriate form for such purpose. Compensation pursuant to this paragraph shall be paid from the county treasury following approval of the appeal administrator of the affidavit filed under this paragraph.

(l) **Military service.**

In the event of the absence of an individual from such individual's residence because of duty in the armed forces, the filing requirements set forth in paragraph (3) of subsection (f) of this Code section shall be tolled for a period of 90 days. During this period, any member of the immediate family of the individual, or a friend of the individual, may notify the tax receiver or the tax commissioner of the individual's absence due to military service and submit written notice of representation for the limited purpose of the appeal. Upon receipt of this notice, the tax receiver or the tax commissioner shall initiate the appeal.

(m) **Interest.**

(1) For the purposes of this Code section, any final value that causes a ~~deduction~~ reduction in taxes and creates a refund that is owed to the taxpayer shall be paid by the tax commissioner to the taxpayer, entity, or transferee who paid the taxes within 60 days from the date of the final determination of value. Such refund shall include interest ~~on the amount of the deduction~~ at the same rate specified in Code Section 48-2-35 which shall accrue from ~~November 15~~ the due date of the taxable year in question or the date ~~the final installment was due or was~~ paid, whichever is later, through the date on which the ~~refund is paid or 60 days from the date of the~~ final determination of value was made~~, whichever is earlier~~. In no event shall the amount of such interest exceed $150.00 for homestead property or $5,000.00 for nonhomestead property. Any refund paid after the sixtieth day shall accrue interest from the sixty-first day until paid with interest at the same rate specified in Code Section 48-2-35. The interest accrued after the sixtieth day and forward shall not be subject to the limits imposed by this subsection. The tax commissioner shall pay the tax refund and any interest for the refund from current collections in the same proportion for each of the levying authorities for whom the taxes were collected.

(2) For the purposes of this Code section, any final value that causes an increase in taxes and creates an additional billing shall be paid to the tax commissioner as any other tax due ~~along with interest, as specified in Code Section 48-2-35. The tax commissioner shall adjust the tax bill, including interest, within 15 days from the date of the final determination of value and mail the adjusted bill to the taxpayer. Such interest shall accrue from November 15 of the taxable year in question or the final installment of the tax was due through the date on which the bill was adjusted and mailed or 15 days from~~

~~the date of the final determination, whichever is earlier. The interest computed on the additional billing shall in no event exceed $150.00 for homestead property or $5,000.00 for nonhomestead property~~. After the tax bill notice has been mailed out, the taxpayer shall be afforded 60 days from the date of the postmark to make full payment of the adjusted bill ~~and interest~~. Once the 60 day payment period has expired, the bill shall be considered past due and interest shall accrue from the original billing due date as specified in Code Section 48-2-40 without limit until the bill is paid in full. Once past due, all other fees, penalties, and late and collection notices shall apply as prescribed in this chapter for the collection of delinquent taxes.

(n) **Service of notice.**

A notice of appeal to a board of tax assessors under subsection (e), (e.1), (f), or (g) of this Code section shall be deemed filed as of the date of the United States Postal Service postmark, receipt of delivery by statutory overnight delivery, or, if the board of tax assessors has adopted a written policy consenting to electronic service, by transmitting a copy to the board of tax assessors via e-mail in portable document format using all e-mail addresses provided by the board of tax assessors ~~and showing in the subject line of the e-mail message the words 'STATUTORY ELECTRONIC SERVICE' in capital letters~~. Service by mail, statutory overnight delivery, or electronic transmittal is complete upon such service. Proof of service may be made within 45 days of receipt of the annual notice of current assessment under Code Section 48-5-306 to the taxpayer by certificate of the taxpayer, the taxpayer's attorney, or the taxpayer's employee by written admission or by affidavit. Failure to make proof of service shall not affect the validity of service.

(o) When a taxpayer authorizes an agent, representative, or attorney in writing to act on the taxpayer's behalf, and a copy of such written authorization is provided to the county board of tax assessors, all notices required to be provided to the taxpayer under this Code section, including those regarding hearing times, dates, certifications, notice of changes or corrections, or other official actions, shall ~~instead~~ be provided to ~~such~~ the taxpayer and the authorized agent, representative, or attorney. Upon agreement by the county board of tax assessors and the taxpayer's agent, representative, or attorney, notices required by this Code section to be sent to the taxpayer or the taxpayer's agent, representative, or attorney may be sent by e-mail. The failure to comply with this subsection with respect to a notice required under this Code section shall result in the tolling of any deadline imposed on the taxpayer under this Code section with respect to that notice.″

SECTION 16.

Said title is further amended in Code Section 48-5-311, relating to county boards of equalization and ad valorem tax appeals, by repealing and reenacting subsections (f) and (g) and by adding a new subsection to read as follows:

"(f) **Nonbinding arbitration.**

(1) As used in this subsection, the term 'certified appraisal' means an appraisal or appraisal report given, signed, and certified as such by a real property appraiser as classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board.

(2) At the option of the taxpayer, an appeal shall be submitted to nonbinding arbitration in accordance with this subsection.

(3)(A) Following an election by the taxpayer to use the arbitration provisions of this subsection, an arbitration appeal shall be effected by the taxpayer by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, or by filing a written notice of arbitration appeal with the county board of tax assessors. The notice of arbitration appeal shall specifically state the grounds for arbitration. The notice shall be filed within 45 days from the date of mailing the notice pursuant to Code Section 48-5-306. Within ten days of receipt of a taxpayer's notice of arbitration appeal, the board of tax assessors shall send to the taxpayer an acknowledgment of receipt of the appeal and a notice that the taxpayer shall, within 45 days of the date of transmittal of the acknowledgment of receipt of the appeal, provide to the county board of tax assessors for consideration a copy of a certified appraisal. Failure of the taxpayer to provide such certified appraisal within such 45 days shall terminate the appeal unless the taxpayer within such 45 day period elects to have the appeal immediately forwarded to the board of equalization. Prior to appointment of the arbitrator and within 45 days of the acknowledgment of the receipt of the appeal, the taxpayer shall provide a copy of the certified appraisal as specified in this paragraph to the county board of tax assessors for consideration. Within 45 days of receiving the taxpayer's certified appraisal, the county board of tax assessors shall either accept the taxpayer's appraisal, in which case that value shall become final, or the county board of tax assessors shall reject the taxpayer's appraisal by sending within ten days of the date of such rejection a written notification by certified mail of such rejection to the taxpayer and the taxpayer's attorney of record in compliance with subsection (o) of this Code section, in which case the county board of tax assessors shall certify within 45 days the appeal to the appeal administrator of the county in which the property is located along with any other papers specified by the person seeking arbitration under this subsection, including, but not limited to, the staff information from the file used by

the county board of tax assessors. In the event the taxpayer is not notified of a rejection of the taxpayer's appraisal within such ten-day period, the taxpayer's appraisal value shall become final. In the event that the county board of tax assessors neither accepts nor rejects the value set out in the certified appraisal within 45 days after the receipt of the certified appraisal, then the certified appraisal shall become the final value. All papers and information certified to the appeal administrator shall become a part of the record on arbitration. At the time of certification of the appeal, the county board of tax assessors shall serve the taxpayer and the taxpayer's attorney of record in compliance with subsection (o) of this Code section, if any, or employee with a copy of the certification along with any other papers specified by the person seeking arbitration along with the civil action file number assigned to the appeal, if any. Within 15 days of filing the certification to the appeal administrator, the presiding or chief judge of the superior court of the circuit in which the property is located shall issue an order authorizing the arbitration.

(B) At any point, the county board of tax assessors and the taxpayer may execute a signed, written agreement establishing the fair market value without entering into or completing the arbitration process. The fair market value as set forth in such agreement shall become the final value.

(C) The arbitration shall be conducted pursuant to the following procedure:

(i) The county board of tax assessors shall, at the time the appeal is certified to the appeal administrator under subparagraph (A) of this paragraph, provide to the taxpayer a notice of a meeting time and place to decide upon an arbitrator, to occur within 60 days after the date of sending the rejection of the taxpayer's certified appraisal. Following the notification of the taxpayer of the date and time of the meeting, the taxpayer shall be authorized to exercise a one-time option of changing the date and time of the meeting to a date and time acceptable to the taxpayer and the county board of tax assessors. If the parties agree, the matter shall be submitted to a single arbitrator chosen by the parties. If the parties cannot agree on the single arbitrator, the arbitrator may be chosen by the presiding or chief judge of the superior court of the circuit in which the property is located within 30 days after the filing of a petition by either party;

(ii) In order to be qualified to serve as an arbitrator, a person shall be classified as a state certified general real property appraiser or state certified residential real property appraiser pursuant to the rules and regulations of the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board and shall have experience or expertise in appraising the type of property that is the subject of the arbitration;

(iii) The arbitrator, within 30 days after his or her appointment, shall set a time and place to hear evidence and testimony from both parties. The arbitrator shall provide written notice to the parties personally or by registered or certified mail or statutory overnight delivery not less than ten days before the hearing. Such written notice shall advise each party that documents or other written evidence to be presented at the hearing by a party must be provided to the other party not less than seven days prior to the time of the hearing and that any failure to comply with this requirement, unless waived by mutual written agreement of such parties, shall be grounds for a continuance or for exclusion of such documents or other written evidence. The arbitrator, in consultation with the parties, may adjourn or postpone the hearing. Following notification of the taxpayer of the date and time of the hearing, the taxpayer shall be authorized to exercise a one-time option of changing the date and time of the hearing to a date and time acceptable to the taxpayer and the county board of tax assessors. The presiding or chief judge of the superior court of the circuit in which the property is located may direct the arbitrator to proceed promptly with the hearing and the determination of the appeal upon application of any party. The hearing shall occur in the county in which the property is located or such other place as may be agreed upon in writing by the parties;

(iv) At the hearing, the parties shall be entitled to be heard, to present documents, testimony, and other matters, and to cross-examine witnesses. The arbitrator may hear and determine the controversy upon the documents, testimony, and other matters produced notwithstanding the failure of a party duly notified to appear;

(v) The arbitrator shall maintain a record of all pleadings, documents, testimony, and other matters introduced at the hearing. The arbitrator or any party to the proceeding may have the proceedings transcribed by a court reporter;

(vi) The provisions of this paragraph may be waived at any time by written consent of the taxpayer and the board of tax assessors;

(vii) At the conclusion of the hearing, the arbitrator shall render a decision regarding the fair market value of the property subject to nonbinding arbitration;

(viii) In order to determine the fair market value, the arbitrator may consider the final value for the property submitted by the county board of tax assessors at the hearing and the final value submitted by the taxpayer at the hearing. The taxpayer shall be responsible for the cost of any appraisal by the taxpayer's appraiser;

(ix) The arbitrator shall consider the final value submitted by the county board of tax assessors, the final value submitted by the taxpayer, and evidence supporting the values submitted by the county board of tax assessors and the taxpayer. The arbitrator shall determine the fair market value of the property under appeal. The arbitrator

shall notify both parties of the decision verbally and shall either send both parties the decision in writing or deliver the decision by hand to each party, with written receipt;

(x) If the taxpayer's value is closest to the fair market value determined by the arbitrator, the county shall be responsible for the fees and costs of such arbitrator. If the value of the board of tax assessors is closest to the fair market value determined by the arbitrator, the taxpayer shall be responsible for the fees and costs of such arbitrator; and

(xi) The board of tax assessors shall have the burden of proving its opinion of value and the validity of its proposed assessment by a preponderance of evidence.

(4) If the county's tax bills are issued before an arbitrator has rendered his or her decision on property which is on appeal, a temporary tax bill shall be issued in the same manner as otherwise required under division (e)(6)(D)(iii) of this Code section.

(5) Upon determination of the final value, the temporary tax bill shall be adjusted as required under division (e)(6)(D)(iii) of this Code section.

(g) **Appeals to the superior court.**

(1) The taxpayer or the county board of tax assessors may appeal decisions of the county board of equalization, hearing officer, or arbitrator, as applicable, to the superior court of the county in which the property lies. By mutual written agreement, the taxpayer and the county board of tax assessors may waive an appeal to the county board of equalization and initiate an appeal under this subsection. A county board of tax assessors shall not appeal a decision of the county board of equalization, arbitrator, or hearing officer, as applicable, changing an assessment by 20 percent or less unless the board of tax assessors gives the county governing authority a written notice of its intention to appeal, and, within ten days of receipt of the notice, the county governing authority by majority vote does not prohibit the appeal. In the case of a joint city-county board of tax assessors, such notice shall be given to the city and county governing authorities, either of which may prohibit the appeal by majority vote within the allowed period of time.

(2) An appeal by the taxpayer as provided in paragraph (1) of this subsection shall be effected by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, or by mailing to or filing with the county board of tax assessors a written notice of appeal. An appeal by the county board of tax assessors shall be effected by giving notice to the taxpayer. The notice to the taxpayer shall be dated and shall contain the name and the last known address of the taxpayer. The notice of appeal shall specifically state the grounds for appeal. The notice shall be mailed or filed within 30 days from the date on which the decision of the county board of equalization, hearing officer, or arbitrator is delivered pursuant to subparagraph (e)(6)(D), paragraph (7) of subsection (e.1), or division (f)(3)(C)(ix) of this Code section. Within 45 days of receipt

of a taxpayer's notice of appeal and before certification of the appeal to the superior court, the county board of tax assessors shall send to the taxpayer notice that a settlement conference, in which the county board of tax assessors and the taxpayer shall confer in good faith, will be held at a specified date and time which shall be no later than 30 days from the notice of the settlement conference, and notice of the amount of the filing fee, if any, required by the clerk of the superior court. The taxpayer may exercise a one-time option to reschedule the settlement conference to a different date and time acceptable to the taxpayer, but in no event later than 30 days from the date of the notice. If at the end of the 45 day review period the county board of tax assessors elects not to hold a settlement conference, then the appeal shall terminate and the taxpayer's stated value shall be entered in the records of the board of tax assessors as the fair market value for the year under appeal and the provisions of subsection (c) of Code Section 48-5-299 shall apply to such value. If the taxpayer chooses not to participate in the settlement conference, he or she may not seek and shall not be awarded fees and costs at such time when the appeal is settled in superior court. If at the conclusion of the settlement conference the parties reach an agreement, the settlement value shall be entered in the records of the county board of tax assessors as the fair market value for the tax year under appeal and the provisions of subsection (c) of Code Section 48-5-299 shall apply to such value. If at the conclusion of the settlement conference the parties cannot agree on a fair market value, then written notice shall be provided to the taxpayer that the filing fees must be paid by the taxpayer to the clerk of the superior court within ten days of the date of the conference, with a copy of the check delivered to the county board of tax assessors. Notwithstanding any other provision of law to the contrary, the amount of the filing fee for an appeal under this subsection shall be $25.00. An appeal under this subsection shall not be subject to any other fees or additional costs otherwise required under any provision of Title 15 or under any other provision of law. Immediately following payment of such $25.00 filing fee by the taxpayer to the clerk of the superior court, the clerk shall remit the proceeds thereof to the governing authority of the county which shall deposit the proceeds into the general fund of the county. Within 30 days of receipt of proof of payment to the clerk of the superior court, the county board of tax assessors shall certify to the clerk of the superior court the notice of appeal and any other papers specified by the person appealing including, but not limited to, the staff information from the file used by the county board of tax assessors, the county board of equalization, the hearing officer, or the arbitrator. All papers and information certified to the clerk shall become a part of the record on appeal to the superior court. At the time of certification of the appeal, the county board of tax assessors shall serve the taxpayer and his or her attorney of record, if any, with a copy of the notice of appeal and with the civil action file number assigned

to the appeal. Such service shall be effected in accordance with subsection (b) of Code Section 9-11-5. No discovery, motions, or other pleadings may be filed by the county board of tax assessors in the appeal until such service has been made.

(3) The appeal shall constitute a de novo action. The board of tax assessors shall have the burden of proving its opinions of value and the validity of its proposed assessment by a preponderance of evidence. Upon a failure of the board of tax assessors to meet such burden of proof, the court may, upon motion or sua sponte, authorize the finding that the value asserted by the board of tax assessors is unreasonable and authorize the determination of the final value of the property.

(4)(A) The appeal shall be placed on the court's next available jury or bench trial calendar, at the taxpayer's election, following the filing of the appeal unless continued by the court. If only questions of law are presented in the appeal, the appeal shall be heard as soon as practicable before the court sitting without a jury. Each hearing before the court sitting without a jury at the taxpayer's election shall be held within 30 days following the date on which the appeal is filed with the clerk of the superior court.

(B)(i) The county board of tax assessors shall use the valuation of the county board of equalization, the hearing officer, or the arbitrator, as applicable, in compiling the tax digest for the county.

(ii)(I) If the final determination of value on appeal is less than the valuation thus used, the tax commissioner shall be authorized to adjust the taxpayer's tax bill to reflect the final value for the year in question.

(II) If the final determination of value on appeal causes a reduction in taxes and creates a refund that is owed to the taxpayer, it shall be paid by the tax commissioner to the taxpayer, entity, or transferee who paid the taxes with interest, as provided in subsection (m) of this Code section.

(III) If the final determination of value on appeal is 85 percent or less of the valuation set by the county board of equalization, hearing officer, or arbitrator as to any real property, the taxpayer, in addition to the interest provided for in subsection (m) of this Code section, shall recover costs of litigation and reasonable attorney's fees incurred in the action. Any appeal of an award of attorney's fees by the county shall be specifically approved by the governing authority of the county.

(iii) If the final determination of value on appeal is greater than the valuation set by the county board of equalization, hearing officer, or arbitrator, as applicable, causes an increase in taxes, and creates an additional billing, it shall be paid to the tax commissioner as any other tax due along with interest, as provided in subsection (m) of this Code section.

(g.1) The provisions in subsection (c) of Code Section 48-5-299 shall apply to the valuation, unless otherwise waived in writing by both parties, as to:

(1) The valuation established or announced by any county board of equalization, arbitrator, hearing officer, or superior court; and

(2) Any written agreement or settlement of valuation reached by the county board of tax assessors and the taxpayer as permitted by this Code section."

SECTION 17.

Reserved.

SECTION 18.

Said title is further amended in Code Section 48-5-345, relating to county tax digests and deviations from certain assessment ratio, by revising paragraph (1) of subsection (a) and by adding a new subsection to read as follows:

"(a)(1) Upon the determination by the commissioner that a county tax digest is in proper form, that the property therein that is under appeal is within the limits of Code Section 48-5-304, and that the digest is accompanied by all documents, statistics, and certifications required by the commissioner, including the number, overall value and percentage of total real property parcels of appeals in each county to the boards of equalization, arbitration, hearing officer, and superior court, and the number of taxpayers' failure to appear at any hearing, for the prior tax year, the commissioner shall issue a receipt for the digest and enter an order authorizing the use of said digest for the collection of taxes. All statistics and certifications regarding real property appeals provided to the commissioner under this paragraph shall be made publicly available on the Department of Revenue website."

"(c) Beginning with tax digests on or after the effective date of this subsection, no county shall be subject to the assessment authorized by subparagraph (b) of this Code section."

SECTION 19.

Said title is further amended by revising subsection (a) of Code Section 48-5-405, relating to the levy and collection of tax by municipalities for independent school systems, as follows:

"(a) Each municipality authorized by law to maintain an independent school system may support and maintain the public common schools within the independent school system by levy of ad valorem taxes at the rate fixed by law upon all taxable property within the limits of the ~~municipality~~ independent school system. The board of education of the municipality or other authority charged with the duty of operating the independent school system shall

annually recommend to the governing authority of the municipality the rate of the tax levy, within the limitations fixed by law, to be made upon all taxable property within the limits of the ~~municipality~~ independent school system. Taxes levied and collected for support and maintenance of the independent school system by the municipal governing authority shall be appropriated, when collected, by the governing authority to the board of education or other authority charged with the duty of operating the independent school system. Funds appropriated to an independent school system shall be expended by the board of education or other authority charged with the duty of operating the independent school system only for educational purposes including, but not limited to, school lunch purposes. The term 'school lunch purposes' shall include payment of costs and expenses incurred in the purchase of school lunchroom supplies; the purchase, replacement, or maintenance of school lunchroom equipment; the transportation, storage, and preparation of foods; and all current operating expenses incurred in the management and operation of school lunch programs in the public common schools of the independent school system. 'School lunch purposes' shall not include the purchase of foods.″

SECTION 20.

Said title is further amended by revising Code Section 48-5-492, relating to issuance of mobile home location permits, as follows:

″48-5-492.

(a) Each year every owner of a mobile home subject to taxation under this article shall obtain on or before ~~May~~ April 1 from the tax collector or tax commissioner of the county of taxation of the mobile home a mobile home location permit. The issuance of the permit by the tax collector or tax commissioner shall be evidenced by the issuance of a decal, the color of which shall be prescribed for each year by the commissioner. Each decal shall reflect the county of issuance and the calendar year for which the permit is issued. The decal shall be prominently attached and displayed on the mobile home by the owner.

(b) Except as provided for mobile homes owned by a dealer, no mobile home location permit shall be issued by the tax collector or tax commissioner until all ad valorem taxes due on the mobile home have been paid. Each year every owner of a mobile home situated in this state on January 1 which is not subject to taxation under this article shall obtain on or before ~~May~~ April 1 from the tax collector or tax commissioner of the county where the mobile home is situated a mobile home location permit. The issuance of the permit shall be evidenced by the issuance of a decal which shall reflect the county of issuance and the calendar year for which the permit is issued. The decal shall be prominently attached and displayed on the mobile home by the owner.″

SECTION 21.

Said title is further amended in Code Section 48-5-493, relating to penalties for failure to attach and display certain decals, by revising paragraph (2) of subsection (a) as follows:

"(2) Any person who violates paragraph (1) of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ~~$25.00~~ $100.00 nor more than ~~$200.00~~ $300.00, except that upon receipt of proof of purchase of a decal prior to the date of the issuance of a summons, the fine shall be ~~$25.00~~ $50.00; provided, however, that in the event such person owns more than one mobile home in an individual mobile home park, then the maximum fine under this paragraph for such person with respect to such mobile home park shall not exceed $1,000.00."

SECTION 22.

Said title is further amended by revising Code Section 48-5-494, relating to mobile home tax returns and decal application and issuance, as follows:

"48-5-494.

Each year every owner of a mobile home subject to taxation under this article shall return the mobile home for taxation and shall pay the taxes due on the mobile home at the time the owner applies for the mobile home location permit, or at the time of the first sale or transfer of the mobile home after December 31, or on ~~May~~ April 1, whichever occurs first. If the owner returns such owner's mobile home for taxation prior to the date that the application for the mobile home location permit is required, such owner shall apply for the permit at the time such owner returns the mobile home for taxation."

SECTION 23.

Said title is further amended by revising subparagraph (c)(3)(A) and subdivision (c)(3)(B)(iii)(III) of Code Section 48-5C-1, relating to the alternative ad valorem tax on motor vehicles, as follows:

"(A) The tag agent of the county shall within 20 days following the end of each calendar month allocate and distribute to the county governing authority and to municipal governing authorities, the board of education of the county school district, and the board of education of any independent school district located in such county and in a county in which a sales and use tax is levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008, the governing body of the transportation authority created by the Metropolitan Atlanta Rapid Transit Authority Act of 1965, Ga. L. 1965, p. 2243, as amended, and the amendment to the Constitution set out at

Ga. L. 1964, p. 1008, an amount of those proceeds necessary to offset any reduction in (i) ad valorem tax on motor vehicles collected under Chapter 5 of this title in the taxing jurisdiction of each governing authority and school district from the amount of ad valorem taxes on motor vehicles collected under Chapter 5 of this title in each such governing authority and school district during the same calendar month of 2012 and (ii) with respect to the transportation authority, the monthly average portion of the sales and use tax levied for purposes of a metropolitan area system of public transportation applicable to any motor vehicle titled in a county which levied such tax in 2012. Such amount of tax may be determined by the commissioner for counties which levied such tax in 2012, and any counties which subsequently levy a tax pursuant to a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008, the governing body of the transportation authority created by the Metropolitan Atlanta Rapid Transit Authority Act of 1965, Ga. L. 1965, p. 2243, as amended, and the amendment to the Constitution set out at Ga. L. 1964, p. 1008, the Commissioner may determine what amount of sales and use tax would have been collected in 2012, had such tax been levied. This reduction shall be calculated, with respect to (i) above, by subtracting the amount of ad valorem tax on motor vehicles collected under Chapter 5 of this title in each such taxing jurisdiction from the amount of ad valorem tax on motor vehicles collected under Chapter 5 of this title in that taxing jurisdiction in the same calendar month of 2012. In the event that the local title ad valorem tax fee proceeds are insufficient to fully offset such reduction in ad valorem taxes on motor vehicles or the portion of the sales and use tax described in (ii) above, the tag agent shall allocate a proportionate amount of the proceeds to each governing authority and to the board of education of each such school district and the transportation authority, and any remaining shortfall shall be paid from the following month's local title ad valorem tax fee proceeds. In the event that a shortfall remains, the tag agent shall continue to first allocate local title ad valorem tax fee proceeds to offset such shortfalls until the shortfall has been fully repaid; and″

″(III) If such tax is not currently in effect in a county in which a tax is levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution; and the laws enacted pursuant to such constitutional amendment, such proceeds shall be distributed ~~to the governing body of the authority created by local Act to operate such metropolitan area system of public transportation~~ in such county, in the same manner as ad valorem tax on motor vehicles collected under Chapter 5 of this title in the taxing jurisdiction of each governing authority and school district from

the amount of ad valorem taxes on motor vehicles collected under Chapter 5 of this title in each such governing authority and school district during the same calendar month of 2012.″

SECTION 24.

Said title is further amended in Code Section 48-6-2, relating to real estate transfer tax exemptions, by revising subsection (b) as follows:

″(b) In order to exercise any exemption provided in this Code section, the total consideration of the transfer ~~shall be shown~~ for real and personal property conveyed shall be shown on the form prescribed in subsection (c) of Code Section 48-6-4.″

SECTION 25.

Said title is further amended in Code Section 48-6-4, relating to real estate transfer tax payment as certain filing prerequisites, by revising subsections (a), (b), and (c) as follows:

″(a) It is the intent of the General Assembly that the tax imposed by this article be paid to the clerk of the superior court or his or her deputy, and that the actual consideration of real and personal property conveyed shall be shown separately on the form prescribed in subsection (c) of this Code section, prior to and as a prerequisite to the filing for record of any deed, instrument, or other writing described in Code Section 48-6-1.

(b) No deed, instrument, or other writing described in Code Section 48-6-1 shall be filed for record or recorded in the office of the clerk of the superior court or filed for record or recorded in or on any other official record of this state or of any county until the tax imposed by this article has been paid and until the actual consideration of real and personal property conveyed has been shown separately on the form prescribed in subsection (c) of this Code section; provided, however, that any such deed, instrument, or other writing filed or recorded which would otherwise constitute constructive notice shall constitute such notice whether or not such tax was in fact paid.

(c) The amount of tax to be paid on a deed, instrument, or other writing shall be determined on the basis of written disclosure of the actual consideration ~~or value~~ of the interest in the property granted, assigned, transferred, or otherwise conveyed. The disclosure of the amount of tax and the actual consideration shall be made on a form or in electronic format prescribed by the commissioner and provided by the clerk of the superior court. By the fifteenth day of the month following the month the deed, instrument, or other writing is recorded, a physical or electronic copy of each disclosure shall be forwarded or made available electronically to the state auditor and to the tax commissioner and the board of tax assessors in the county where the deed, instrument, or other writing is recorded.″

SECTION 26.

Said title is further amended by revising paragraphs (94) and (95) of and by adding a new paragraph to Code Section 48-8-3, relating to exemptions from state sales and use tax, as follows:

"(94) The sale, use, consumption, or storage of materials, containers, labels, sacks, or bags used for packaging tangible personal property for shipment or sale. To qualify for the packaging exemption, the items shall be used solely for packaging and shall not be purchased for reuse. The packaging exemption shall not include materials purchased at a retail establishment for consumer use; ~~or~~

(95) The sale or purchase of any motor vehicle titled in this state on or after March 1, 2013, pursuant to Code Section 48-5C-1. Except as otherwise provided in this paragraph, this exemption shall not apply to rentals of motor vehicles for periods of 31 or fewer consecutive days. Lease payments for a motor vehicle that is leased for more than 31 consecutive days for which a state and local title ad valorem tax is paid shall be exempt from sales and use taxes as provided for in this paragraph. No sales and use taxes shall be imposed upon state and local title ad valorem tax fees imposed pursuant to Chapter 5C of this title as a part of the purchase price of a motor vehicle or any portion of a lease or rental payment that is attributable to payment of state and local title ad valorem tax fees under Chapter 5C of this title~~.~~; or

(96)(A) The sale or use of construction materials used for or in the construction of buildings at a private college to the extent provided in subparagraphs (B) and (C) of this paragraph. As used in this paragraph, the term 'private college' means a college in this state which is operated by an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and has an enrollment of between 1,000 and 3,000 students.

(B) This exemption shall apply from July 1, 2015, until June 30, 2016, or until the aggregate state sales and use tax refunded pursuant to this paragraph exceeds $350,000.00, whichever occurs first. A qualifying private college shall pay sales and use tax on all purchases and uses of construction materials and may obtain the benefit of this exemption from state sales and use tax by filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph shall not include interest.

(C)(i) This exemption shall apply from July 1, 2015, until June 30, 2016. A qualifying private college shall pay sales and use tax on all purchases and uses of construction materials and may obtain the benefit of this exemption from local sales and use tax by filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph shall not include interest.

(ii) For purposes of this subparagraph, local sales and use tax shall be defined as any local sales and use tax levied or imposed at any time 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 Article 2, 2A, 3, 4, or 5 of this chapter.

(D) Notwithstanding any provision of Code Section 48-8-63 to the contrary, purchases by a contractor may qualify for the exemption provided for in this paragraph. However, when a contractor purchases qualifying construction materials, the contractor shall pay the tax at the time of purchase or at the time of first use in this state; and the ultimate owner of the property may file a claim for refund of the tax paid on the qualifying property.

(E) Items qualifying for exemption include all construction materials that will remain at the private college after completion of construction and all construction materials that become incorporated into the real property structures of the private college. This exemption excludes all items that remain in the possession of a contractor after the completion of construction."

SECTION 27.

(a) Sections 1, 2, and 3, this section, and Section 28 of this Act shall become effective upon their approval by the Governor or upon their becoming law without such approval.

(b) Sections 13 and 15 of this Act shall become effective on July 1, 2015.

(c) The remaining sections of this Act shall become effective on January 1, 2016, and Sections 9, 12, and 15 of this Act shall be applicable to all appeals filed on or after such date.

SECTION 28.

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

House Bill 215 (AS PASSED HOUSE AND SENATE)

By: Representatives Jacobs of the 80th, Mayo of the 84th, Mosby of the 83rd, Taylor of the 79th, Drenner of the 85th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use taxes, so as to provide for an additional exemption to the ceiling on local sales and use taxes which may be levied by a political subdivision; to provide for a revised distribution of the proceeds from the levy of an equalized homestead option sales and use tax; to provide for the levy of a special purpose local options sales and use tax in certain counties; to provide for procedures, conditions, and limitations; to provide for a short title; 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 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use taxes, is amended in Code Section 48-8-6, relating to the ceiling on local sales and use taxes, by revising paragraph (2) of subsection (a) as follows:

"(2) Any tax levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution; and the laws enacted pursuant to such constitutional amendment; provided, however, that the exception provided for under this paragraph shall only apply:

(A) In a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code Section 48-8-111 in whole or in part for the purpose or purposes of a water capital outlay project or projects, a sewer capital outlay project or projects, a water and sewer capital outlay project or projects, water and sewer projects and costs as defined under paragraph (4) of Code Section 48-8-200, or any combination thereof and with respect to which the county has entered into an intergovernmental contract with a municipality, in which the average waste-water system flow of such municipality is not less than 85 million gallons per day, allocating proceeds to such municipality to be used solely for water and sewer projects and costs as defined under paragraph (4) of Code Section

48-8-200. The exception provided for under this subparagraph shall apply only during the period the tax under ~~said~~ such subparagraph (a)(1)(D) is in effect. The exception provided for under this subparagraph shall not apply in any county in which a tax is being imposed under Article 2A of this chapter; ~~or~~

(B) In a county in which the tax levied for purposes of a metropolitan area system of public transportation is first levied after January 1, 2010, and before November 1, 2016. Such tax shall not apply to the following:

(i) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport. For purposes of this division, a 'qualifying airline' means any person which is authorized by the Federal Aviation Administration or another 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. For purposes of this division, a 'qualifying airport' means any airport in ~~the~~ this state that has had more than 750,000 takeoffs and landings during a calendar year; and

(ii) The sale of motor vehicles; or

(C) In a county in which a tax is levied and collected pursuant to Part 2 of Article 2A of this chapter;″

SECTION 2.

Said chapter is further amended by revising Article 2A, relating to the homestead option sales and use tax, as follows:

″Part 1

48-8-100.

This ~~article~~ part shall be known and may be cited as the 'Homestead Option Sales and Use Tax Act.'

48-8-101.

As used in this ~~article~~ part, 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.

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~~ <u>part</u> shall be liberally construed to effectuate such intent.

48-8-102.

(a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution of this state, there are created within this state 159 special districts. The geographical boundary of each county shall correspond with and shall be conterminous with the geographical boundary of one of the 159 special districts.

(b) When the imposition of a local sales and use tax is authorized according to the procedures provided in this ~~article~~ <u>part</u> 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~~ <u>part</u>, except that the sales and use tax provided in this ~~article~~ <u>part</u> shall be applicable to sales of motor fuels as prepaid local tax as ~~that~~ <u>such</u> term is defined in Code Section 48-8-2 and shall be applicable to the sale of food and food ingredients and alcoholic beverages only to the extent provided for in paragraph (57) of Code Section 48-8-3.

(c)(1) Except as otherwise provided in paragraph (2) of this subsection, the proceeds of the sales and use tax levied and collected under this ~~article~~ <u>part</u> shall be used only for the purposes of funding capital outlay projects and of funding services within a special district equal to the revenue lost to the homestead exemption as provided in Code Section 48-8-104 and, in the event excess funds remain following the expenditure for such purposes, such excess funds shall be expended as provided in subparagraph (c)(2)(C) of Code Section 48-8-104.

(2) Prior to January 1 of the year immediately following the first complete calendar year in which the sales and use tax under this ~~article~~ part is imposed, such proceeds may be used for funding all or any portion of those services which are to be provided by the governing authority of the county whose geographic boundary is conterminous with that of the special district pursuant to and in accordance with Article IX, Section II, Paragraph III of the Constitution of this state.

(d) Such sales and use tax shall only be levied in a special district following the enactment of a local Act which provides for a homestead exemption of an amount to be determined from the amount of sales and use tax collected under this ~~article~~ part. Such exemption shall commence with taxable years beginning on or after January 1 of the year immediately following the first complete calendar year in which the sales and use tax under this ~~article~~ part is levied. Any such local Act shall incorporate by reference the terms and conditions specified under this ~~article~~ part. Any such local Act shall not be subject to the provisions of Code Section 1-3-4.1. Any such homestead exemption under this ~~article~~ part shall be in addition to and not in lieu of any other homestead exemption applicable to county taxes for county purposes within the special district. Notwithstanding any provision of such local Act to the contrary, the referendum which shall otherwise be required to be conducted under such local Act shall only be conducted if the resolution required under subsection (a) of Code Section 48-8-103 is adopted prior to the issuance of the call for the referendum under the local Act by the election superintendent. If such ordinance is not adopted by that date, the referendum otherwise required to be conducted under the local Act shall not be conducted.

(e) No sales and use tax shall be levied in a special district under this ~~article~~ part in which a tax is levied and collected under Article 2 of this chapter.

48-8-103.

(a) Whenever the governing authority of any county whose geographic boundary is conterminous with that of the special district wishes to submit to the electors of the special district the question of whether the sales and use tax authorized by Code Section 48-8-102 shall be imposed, any such governing authority shall notify the election superintendent of the county whose geographical boundary is conterminous with that of the special district by forwarding to the superintendent a copy of a resolution of the governing authority calling for a referendum election. Upon receipt of the resolution, it shall be the duty of the election superintendent to issue the call for an election for the purpose of submitting the question of the imposition of the sales and use tax to the voters of the special district for approval or rejection. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540. Such

election shall only be conducted on the date of and in conjunction with a referendum provided for by local Act on the question of whether to impose a homestead exemption within such county and based on the amount of proceeds from the sales and use tax levied and collected pursuant to this ~~article~~ part. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date of the election in the official organ of such county. The ballot shall have written or printed thereon the following statement which shall precede the ballot question specified in this subsection and the ballot question specified by the required local Act:

'NOTICE TO ELECTORS: Unless **BOTH** the homestead exemption **AND** the retail homestead option sales and use tax are approved, then neither the exemption nor the sales and use tax shall become effective.'

Such statement shall be followed by the following:

'( ) YES Shall a retail homestead option sales and use tax of 1 percent be levied within the special district within _____ County for the
( ) NO purposes of funding capital outlay projects and of funding services to replace revenue lost to an additional homestead exemption of up to 100 percent of the assessed value of homesteads from county taxes for county purposes?'

Notwithstanding any other provision of law to the contrary, the statement, ballot question, and local Act ballot question referred to in this subsection shall precede any and all other ballot questions calling for the levy or imposition of any other sales and use tax which are to appear on the same ballot.

(b) All persons desiring to vote in favor of levying the sales and use tax shall vote 'Yes,' and those persons opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in favor of levying the tax and approving the local Act providing such homestead exemption, then the tax shall be levied in accordance with this ~~article~~ part; otherwise, the sales and use tax may not be levied, and the question of the imposition of the sales and use tax may not again be submitted to the voters of the special district until after 24 months immediately following the month in which the election was held. It shall be the duty of the election superintendent to hold and conduct such elections under the same rules and regulations as govern special elections. It shall be the superintendent's further duty to canvass the returns, declare the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be borne by the county whose geographical boundary is conterminous with that of the special district holding the election.

(c) If the imposition of the sales and use tax provided in Code Section 48-8-102 is approved in a referendum election as provided by subsections (a) and (b) of this Code

section, the governing authority of the county whose geographical boundary is conterminous with that of the special district shall adopt a resolution during the first 30 days following the certification of the result of the election imposing the sales and use tax authorized by Code Section 48-8-102 on behalf of the county whose geographical boundary is conterminous with that of the special district. The resolution shall be effective on the first day of the next succeeding calendar quarter which begins more than 80 days after the adoption of the resolution. With respect to services which are billed on a regular monthly basis, however, the resolution shall become effective with the first regular billing period coinciding with or following the otherwise effective date of the resolution. A certified copy of the resolution shall be forwarded to the commissioner so that it will be received within five days after its adoption.

48-8-104.

(a) The sales and use tax levied pursuant to this ~~article~~ <u>part</u> 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~~ <u>part</u> shall be applicable to sales of motor fuels as prepaid local tax as ~~that~~ <u>such</u> term is defined in 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.

(b) Each sales and use tax return remitting sales and use taxes collected under this ~~article~~ <u>part</u> 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~~ <u>part</u> 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~~ <u>part</u> 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~~ <u>part</u> 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~~ <u>part</u> 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~~ part 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~~ part 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~~ part 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~~ part; 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~~ <u>part</u> the same as if it were a qualified municipality as defined in paragraph (4) of Code Section 48-8-101 and therefore receive payment of equalization amounts under this ~~article~~ <u>part</u> as provided for under this ~~article~~ <u>part</u>. 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~~ <u>part</u> 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.

48-8-105.

Where a local sales or use tax has been paid with respect to tangible personal property by the purchaser either in another local tax jurisdiction within ~~the~~ this state or in a tax jurisdiction outside ~~the~~ this state, the sales and use tax may be credited against the sales and

use tax authorized to be imposed by this ~~article~~ part upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due under this ~~article~~ part, the purchaser shall pay an amount equal to the difference between the amount paid in the other tax jurisdiction and the amount due under this ~~article~~ part. The commissioner may require such proof of payment in another local tax jurisdiction as the commissioner deems necessary and proper. No credit shall be granted, however, against the sales and use tax imposed under this ~~article~~ part for tax paid in another jurisdiction if the sales and use tax paid in such other jurisdiction is used to obtain a credit against any other local sales and use tax levied in the special district or in the county which is conterminous with the special district; and sales and use taxes so paid in another jurisdiction shall be credited first against the sales and use tax levied under this ~~article~~ part and then against the sales and use tax levied under Article 3 of this chapter, if applicable.

48-8-106.

(a) Whenever the governing authority of any county whose geographic boundary is conterminous with that of the special district in which the sales and use tax authorized by this ~~article~~ part is being levied wishes to submit to the electors of the special district the question of whether the sales and use tax authorized by Code Section 48-8-102 shall be discontinued, the governing authority shall notify the election superintendent of the county whose geographical boundary is conterminous with that of the special district by forwarding to the superintendent a copy of a resolution of the governing authority calling for the referendum election. Upon receipt of the resolution, it shall be the duty of the election superintendent to issue the call for an election for the purpose of submitting the question of discontinuing the levy of the sales and use tax to the voters of the special district for approval or rejection. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540. Such election shall ~~only~~ be conducted only on the date of and in conjunction with a referendum provided for by local Act on the question of whether to repeal the homestead exemption within such county which is funded from the proceeds of the sales and use tax levied and collected pursuant to this ~~article~~ part. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date of the election in the official organ of such county. The ballot shall have written or printed thereon the following:

'( ) YES Shall the 1 percent retail homestead option sales and use tax being levied within the special district within _____ County for the purposes
( ) NO of funding capital outlay projects and of funding services to replace revenue lost to an additional homestead exemption of up to 100 percent of the assessed value of homesteads from county taxes for county purposes be terminated?'

(b) All persons desiring to vote in favor of discontinuing the sales and use tax shall vote 'Yes,' and those persons opposed to discontinuing the tax shall vote 'No.' If more than one-half of the votes cast are in favor of discontinuing the sales and use tax and repealing the local Act providing for such homestead exemption, then the sales and use tax shall cease to be levied on the last day of the taxable year following the taxable year in which the commissioner receives the certification of the result of the election; otherwise, the sales and use tax shall continue to be levied, and the question of the discontinuing of the tax may not again be submitted to the voters of the special district until after 24 months immediately following the month in which the election was held. It shall be the duty of the election superintendent to hold and conduct such elections under the same rules and regulations as govern special elections. It shall be the superintendent's further duty to canvass the returns, declare and certify the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be borne by the county whose geographical boundary is conterminous with that of the special district holding the election.

48-8-107.

No sales and use tax provided for in Code Section 48-8-102 shall be imposed upon the sale of tangible personal property which is ordered by and delivered to the purchaser at a point outside the geographical area of the special district in which the sales and use tax is imposed under this ~~article~~ <u>part</u> regardless of the point at which title passes, if the delivery is made by the seller's vehicle, United States mail, or common carrier or by private or contract carrier licensed by the Federal Motor Carrier Safety Administration or the Georgia Department of Public Safety.

48-8-108.

(a) As used in this Code section, the term 'building and construction materials' means all building and construction materials, supplies, fixtures, or equipment, any combination of such items, and any other leased or purchased articles when the materials, supplies, fixtures, equipment, or articles are to be utilized or consumed during construction or are to be incorporated into construction work pursuant to a bona fide written construction contract.

(b) No sales and use tax provided for in Code Section 48-8-102 shall be imposed in ~~such~~ a special district upon the sale or use of building and construction materials when the contract pursuant to which the materials are purchased or used was advertised for bid prior to approval of the levy of the sales and use tax by the county whose geographical boundary is conterminous with that of the special district and the contract was entered into as a result of a bid actually submitted in response to the advertisement prior to approval of the levy of the sales and use tax.

48-8-109.

The commissioner shall have the power and authority to promulgate such rules and regulations as shall be necessary for the effective and efficient administration and enforcement of the collection of the sales and use tax authorized to be imposed by this ~~article~~ part.

Part 2

48-8-109.1.

This part shall be known and may be cited as the 'Equalized Homestead Option Sales Tax Act of 2015.'

48-8-109.2.

In any county where a homestead option sales and use tax under Part 1 of this article and a sales tax for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution; and the laws enacted pursuant to such constitutional amendment, are being levied, the county governing authority may choose to submit to the electors of the special district the question of whether to suspend the sales and use tax authorized by Code Section 48-8-102 and replace such tax with a sales and use tax authorized by this part. Such referendum shall only be held in conjunction with a referendum submitting to the electors of the special district the question of whether to approve a special purpose local option sales and use tax pursuant to the provisions of Part 1 of Article 3 of this chapter. The electors of the special district must approve both of the sales and use taxes in order for either of them to be implemented. If either of the sales and use taxes is not approved by the electors, the homestead option sales and use tax under Part 1 of this article shall be continued in full force and effect.

48-8-109.3.

(a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution of this state, there are created within this state 159 special districts. The geographical boundary of each county shall correspond with and shall be conterminous with the geographical boundary of one of the 159 special districts.

(b) When the imposition of a local sales and use tax is authorized according to the procedures provided in this part 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 same rate as provided in Part 1 of this article. Except as otherwise provided in this part, the local sales and use tax shall correspond to the tax imposed and administered by Part 1 of this article. The local sales and use tax levied pursuant to this part shall apply to all items and transactions subject to taxation pursuant to Part 1 of this article. No item or transaction which is not subject to taxation pursuant to Part 1 of this article shall be subject to the tax levied pursuant to this part.

(c) No sales and use tax shall be levied in a special district under this part in which a tax is levied and collected under Article 2 of this chapter.

48-8-109.4.

(a) Whenever the governing authority of any county whose geographic boundary is conterminous with that of the special district wishes to submit to the electors of the special district the question of whether the sales and use tax authorized by this part shall be imposed, any such governing authority shall notify the election superintendent of the county whose geographical boundary is conterminous with that of the special district by forwarding to the superintendent a copy of a resolution of the governing authority calling for a referendum election. Upon receipt of the resolution, it shall be the duty of the election superintendent to issue the call for an election for the purpose of submitting the question of the imposition of the sales and use tax to the voters of the special district for approval or rejection. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540. Such election shall only be held in conjunction with a referendum submitting to the electors of the special district the question of whether to approve a special purpose local option sales and use tax pursuant to the provisions of Part 1 of Article 3 of this chapter. The electors of the special district must approve both of the sales and use taxes in order for either of them to be implemented. If either of the taxes is not approved by the electors, the homestead option sales and use tax under Part 1 of this article shall be continued in full force and effect. If the sales and use tax under Part 1 of Article 3 of this chapter is not renewed, the sales and use tax under Part 1 of this article shall replace the sales and use tax under this part upon

expiration of the sales and use tax under Part 1 of Article 3 of this chapter. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date of the election in the official organ of such county. The ballot shall have written or printed thereon the following statement which shall precede the ballot question specified in this subsection:

'NOTICE TO ELECTORS: Unless **BOTH** the equalized homestead option sales and use tax **AND** the special purpose local option sales and use tax are approved, then neither sales and use tax shall become effective.'

Such statement shall be followed by the following:

'( ) YES Shall an equalized homestead option sales and use tax be levied and the regular homestead option sales and use tax be suspended within the special district within _____ County for the purposes of reducing the ad valorem property tax millage rates levied by county and municipal governments on homestead properties?'

( ) NO

Notwithstanding any other provision of law to the contrary, the statement and ballot question referred to in this subsection shall precede any and all other ballot questions which are to appear on the same ballot.

(b) All persons desiring to vote in favor of levying the sales and use tax shall vote 'Yes,' and those persons opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in favor of levying the tax, then the tax shall be levied in accordance with this part; otherwise, the sales and use tax may not be levied, and the question of the imposition of the sales and use tax may not again be submitted to the voters of the special district until after 24 months immediately following the month in which the election was held. It shall be the duty of the election superintendent to hold and conduct such elections under the same rules and regulations as govern special elections. It shall be the superintendent's further duty to canvass the returns, declare the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be borne by the county whose geographical boundary is conterminous with that of the special district holding the election.

(c) If the imposition of the sales and use tax provided in this part is approved in a referendum election as provided by subsections (a) and (b) of this Code section, the governing authority of the county whose geographical boundary is conterminous with that of the special district shall adopt a resolution during the first 30 days following the certification of the result of the election imposing the sales and use tax authorized in this part on behalf of the county whose geographical boundary is conterminous with that of the special district. The resolution shall be effective on the first day of the next succeeding calendar quarter which begins more than 80 days after the adoption of the resolution. With

respect to services which are billed on a regular monthly basis, however, the resolution shall become effective with the first regular billing period coinciding with or following the otherwise effective date of the resolution. A certified copy of the resolution shall be forwarded to the commissioner so that it will be received within five days after its adoption.

48-8-109.5.

(a) The sales and use tax levied pursuant to this part 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 part shall be applicable to sales of motor fuels as prepaid local tax as such term is defined in Code Section 48-8-2, to the same extent that sales of motor fuels are subject to taxation pursuant to Part 1 of this article; 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 part 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 part 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 part 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; and

(2) The remaining proceeds shall be disbursed to the governing authority of the county whose geographical boundary is conterminous with that of the special district, and each municipality located wholly or partially therein, and shall be utilized as follows:

(A) First, the proceeds shall be used to roll back, and eliminate if possible, the millage rates for any county ad valorem property tax line items levied uniformly throughout the county on homestead properties, including in all municipalities; and

(B) Next, any remaining proceeds shall be used to roll back at an equal and uniform rate across both of the following categories, and eliminate if possible:

(i) The millage rates for any county ad valorem property tax line items levied only in unincorporated portions of the county on homestead properties; and

(ii) The millage rates for any municipal ad valorem property tax line items levied in every municipality located wholly or partially in the county on homestead properties but not in unincorporated portions of the county.

If any municipality is located partially in the special district, then only that portion so located shall be considered in the calculations contained in this subsection.

(d) The form to collect ad valorem tax prepared by the county tax commissioner shall reflect the full amount owed by the taxpayer pursuant to the millage rates set by the county governing authority and any municipal governing authority. Under a separate heading, the form shall reflect the deductions from the gross ad valorem tax amount realized through the application of proceeds from the equalized homestead option sales and use tax.

(e) Notwithstanding any provision of law to the contrary except subsection (f) of this Code section, in any county levying a tax under this part, a tax levied pursuant to the provisions of Part 1 of Article 3 of this chapter in a special district in such county shall be strictly divided between the unincorporated portions of the county whose geographical boundary is conterminous with that of the special district and the municipalities wholly or partially located within the special district on a per capita basis, based on the most recent decennial census, unless altered by an intergovernmental agreement between the county and all municipalities wholly located within the special district. For as long as a municipality located within the special district and incorporated after the effective date of this Code section does not maintain the roads, streets, sidewalks, and bicycle paths within its territorial boundaries and relies upon the county governing authority for such maintenance, such municipality's per capita share of the proceeds of the tax levied pursuant to Part 1 of Article 3 of this chapter shall be paid to the county governing authority. Notwithstanding any provision of law to the contrary, the department shall disburse directly to the county and each municipality its share of the proceeds of the tax levied pursuant to Part 1 of Article 3 of this chapter.

(f) The tax levied in the special district under Part 1 of Article 3 of this chapter shall not be levied within the boundaries of any municipality wholly or partially located within the special district that is levying a tax pursuant to Article 4 of this chapter. No proceeds from the tax levied in the special district under Part 1 of Article 3 of this chapter shall be disbursed to any such municipality. Upon the expiration of the tax levied under Article 4 of this chapter in such municipality, the tax in the special district under Part 1 of Article 3

of this chapter shall be levied within such municipality and proceeds shall be disbursed to such municipality in accordance with this part.

48-8-109.6.

Where a local sales or use tax has been paid with respect to tangible personal property by the purchaser either in another local tax jurisdiction within this state or in a tax jurisdiction outside this state, the sales and use tax may be credited against the sales and use tax authorized to be imposed by this part upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due under this part, the purchaser shall pay an amount equal to the difference between the amount paid in the other tax jurisdiction and the amount due under this part. The commissioner may require such proof of payment in another local tax jurisdiction as the commissioner deems necessary and proper. No credit shall be granted, however, against the sales and use tax imposed under this part for tax paid in another jurisdiction if the sales and use tax paid in such other jurisdiction is used to obtain a credit against any other local sales and use tax levied in the special district or in the county which is conterminous with the special district; and sales and use taxes so paid in another jurisdiction shall be credited first against the sales and use tax levied under this part and then against the sales and use tax levied under Article 3 of this chapter, if applicable.

48-8-109.7.

(a) Whenever the governing authority of any county whose geographic boundary is conterminous with that of the special district in which the sales and use tax authorized by this part is being levied wishes to submit to the electors of the special district the question of whether the sales and use tax authorized by this part shall be discontinued, the governing authority shall notify the election superintendent of the county whose geographical boundary is conterminous with that of the special district by forwarding to the superintendent a copy of a resolution of the governing authority calling for the referendum election. Upon receipt of the resolution, it shall be the duty of the election superintendent to issue the call for an election for the purpose of submitting the question of discontinuing the levy of the sales and use tax to the voters of the special district for approval or rejection. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540. Such election shall be conducted only on the date of and in conjunction with an election to repeal the special purpose local option sales and use tax pursuant to the provisions of Part 1 of Article 3 of this chapter. If either such sales and use tax is repealed, then both such sales and use taxes shall be repealed and the sales and use tax under Part 1 of this article shall replace the sales and use

tax that was imposed under this part. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date of the election in the official organ of such county. The ballot shall have written or printed thereon the following:

'( ) YES Shall the equalized homestead option sales and use tax being levied within the special district within _____ County for the
( ) NO purposes of reducing the ad valorem property tax millage rates levied by county and municipal governments on homestead properties be terminated?'

(b) All persons desiring to vote in favor of discontinuing the sales and use tax shall vote 'Yes,' and those persons opposed to discontinuing the tax shall vote 'No.' If more than one-half of the votes cast are in favor of discontinuing the sales and use tax, then the sales and use tax shall cease to be levied on the last day of the taxable year following the taxable year in which the commissioner receives the certification of the result of the election; otherwise, the sales and use tax shall continue to be levied, and the question of discontinuing the tax may not again be submitted to the voters of the special district until after 24 months immediately following the month in which the election was held. It shall be the duty of the election superintendent to hold and conduct such elections under the same rules and regulations as govern special elections. It shall be the superintendent's further duty to canvass the returns, declare and certify the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be borne by the county whose geographical boundary is conterminous with that of the special district holding the election.

48-8-109.8.

No sales and use tax provided for in this part shall be imposed upon the sale of tangible personal property which is ordered by and delivered to the purchaser at a point outside the geographical area of the special district in which the sales and use tax is imposed under this part regardless of the point at which title passes, if the delivery is made by the seller's vehicle, United States mail, or common carrier or by private or contract carrier licensed by the Federal Motor Carrier Safety Administration or the Georgia Department of Public Safety.

48-8-109.9.

(a) As used in this Code section, the term 'building and construction materials' means all building and construction materials, supplies, fixtures, or equipment, any combination of such items, and any other leased or purchased articles when the materials, supplies,

fixtures, equipment, or articles are to be utilized or consumed during construction or are to be incorporated into construction work pursuant to a bona fide written construction contract.

(b) No sales and use tax provided for in this part shall be imposed in a special district upon the sale or use of building and construction materials when the contract pursuant to which the materials are purchased or used was advertised for bid prior to approval of the levy of the sales and use tax by the county whose geographical boundary is conterminous with that of the special district and the contract was entered into as a result of a bid actually submitted in response to the advertisement prior to approval of the levy of the sales and use tax.

48-8-109.10.

The commissioner shall have the power and authority to promulgate such rules and regulations as shall be necessary for the effective and efficient administration and enforcement of the collection of the sales and use tax authorized to be imposed by this part.″

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.

House Bill 225 (AS PASSED HOUSE AND SENATE)

By: Representatives Powell of the 32nd, Dunahoo of the 30th, Carson of the 46th, Rutledge of the 109th, Hitchens of the 161st, and others

A BILL TO BE ENTITLED

AN ACT

To regulate transportation for hire; to amend Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to general provisions regarding provisions applicable to counties and municipal corporations, so as to preserve existing certificates of public necessity and convenience and medallion systems for taxicabs and to restrict the future use thereof; to provide that operators of taxicabs have for-hire license endorsements; to prohibit the staging of certain vehicles; to provide certain insurance requirements for taxicabs; to amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, so as to change certain provisions relating to commercial indemnity liability insurance for limousine carriers; to provide for the comprehensive regulation of transportation referral services, transportation referral service providers, ride share network services, and ride share drivers; to provide for definitions; to provide for legislative intent; to provide for registration and licensing of such providers; to provide for certain disclosures; to prohibit certain practices and to provide penalties for violations; to prohibit the waiver of rights by passengers under certain conditions; to provide for billing methods; to provide for master license fees for for-hire vehicles in lieu of sales and use taxes on fares; to provide for for-hire license endorsements; to amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use taxes, so as to provide an exemption; to provide for related matters; to provide for effective dates and for legislative intent; 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 regarding provisions applicable to counties and municipal corporations, is amended by revising subsection (a) of Code Section 36-60-25, relating to certificates of public necessity and convenience and medallions for taxicabs, and by adding new subsections to read as follows:

"(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."

"(c) Counties and municipalities which have adopted and have valid ordinances as of July 1, 2014, requiring taxicabs to have certificates of public necessity and convenience or medallions to operate within each such county or municipality may continue to require such certificates or medallions. Except as otherwise provided in this subsection, no county or municipality shall enact, adopt, or enforce any ordinance or regulation which requires taxicabs to have certificates of public necessity and convenience or medallions to operate within such county or municipality.

(d) No person shall operate a taxicab for the purpose of carrying or transporting passengers for hire unless such person has a for-hire license endorsement or private background check certification pursuant to Code Section 40-5-39. Counties and municipalities shall not impose further licensing requirements or background checks on such persons to operate taxicabs in their jurisdictions.

(e) As used in this subsection, the term 'stage' means to stop, park, or otherwise place a vehicle for hire, other than a taxicab, in the loading or curbside area of any business for the purpose of soliciting a fare when such vehicle is not engaged in a prearranged round-trip or prearranged one-way fare. It shall be illegal to stage limousine carriers, as defined in paragraph (5) of Code Section 40-1-151, or ride share drivers, as defined in paragraph (3) of Code Section 40-1-190. A person who violates this subsection shall be guilty of a misdemeanor.

(f) No person shall operate a taxicab for the purpose of carrying or transporting passengers for hire unless such person maintains insurance from an insurance company licensed under

Title 33, through a surplus line broker licensed under Title 33, or is qualified as a self-insurer pursuant to Code Section 33-34-5.1.″

SECTION 2.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended by revising Code Section 40-1-158, relating to limousine chauffeur authorization and license endorsement, as follows:

″40-1-158.

Pursuant to rules and regulations prescribed by the commissioner of driver services, each chauffeur employed by a limousine carrier shall secure from the Department of Driver Services a ~~limousine chauffeur authorization and~~ for-hire license endorsement or private background check certification pursuant to Code Section 40-5-39.″

SECTION 2.1.

Said title is further amended by revising Code Section 40-1-166, relating to commercial indemnity and liability insurance, as follows:

″40-1-166.

Each limousine carrier shall obtain and maintain commercial indemnity and liability insurance with an insurance company ~~authorized to do business in this state~~ licensed under Title 33 or through a surplus line broker licensed under Title 33, 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 minimum amount of such insurance shall be:

(1) For capacity of 12 passengers or less, $300,000.00 for bodily injuries to or death of all persons in any one accident with a maximum of $100,000.00 for bodily injuries to or death of one person, and $50,000.00 for loss of damage in any one accident to property of others, excluding cargo; or

(2) For capacity of more than 12 passengers, $500,000.00 for bodily injuries to or death of all persons in any one accident with a maximum of $100,000.00 for bodily injuries to or death of one person, and $50,000.00 for loss of damage in any one accident to property of others, excluding cargo.″

SECTION 3.

Said title is further amended by adding a new part to Article 3 of Chapter 1, relating to motor carriers, to read as follows:

″Part 4

40-1-190.

As used in this part, the term:

(1) 'Limousine carrier' means any limousine company or provider which is licensed with the state pursuant to paragraph (5) of Code Section 40-1-151.

(2) 'Metering device' means an instrument or device which is utilized for the purpose of calculating for-hire fares based upon distance, time, mileage, and administrative fees and which is not a taximeter.

(3) 'Ride share driver' means an individual who uses his or her personal passenger car, as defined in paragraph (41) of Code Section 40-1-1, to provide transportation for passengers arranged through a ride share network service.

(4) 'Ride share network service' means any person or entity that uses a digital network or Internet network to connect passengers to ride share drivers for the purpose of prearranged transportation for hire or for donation. The term 'ride share network service' shall not include any corporate sponsored vanpool or exempt rideshare as such terms are defined in Code Section 40-1-100, provided that such corporate sponsored vanpool or exempt rideshare is not operated for the purpose of generating a profit.

(5) 'Taxi service' means any taxicab company or provider which utilizes a motor vehicle or similar vehicle, device, machine, or conveyance to transport passengers; uses a taximeter; and is authorized to provide taxicab services pursuant to an ordinance of a local government in this state.

(6) 'Taximeter' means an instrument or device approved by the applicable local government which is utilized by a taxi service for the purpose of calculating fares based upon distance, time, and mileage.

(7) 'Transportation referral service' means any person or entity that books, refers clients to, collects money for, or advertises transportation services provided by a limousine carrier or taxi service by means of a telephone, through cellular telephone software, through the Internet, in person, by written instrument, by any person, or by any other means, and does not own or lease any motor vehicle required to be registered with the Department of Public Safety as a limousine carrier or a taxi service. A transportation referral service shall not include emergency or nonemergency medical transports.

(8) 'Transportation referral service provider' means any person or entity that books, refers clients to, collects money for, or advertises transportation services provided by a limousine carrier or taxi service by means of a telephone, through cellular telephone software, through the Internet, in person, by written instrument, by any person, or by any other means and owns or leases one or more motor vehicles required to be registered with

the Department of Public Safety as a limousine carrier or a local government in this state as a taxi service. A transportation referral service provider shall not include emergency or nonemergency medical transports.

40-1-191.

The General Assembly finds that it is in the public interest to provide uniform administration and parity among ride share network services, transportation referral services, and transportation referral service providers, including taxi services, that operate in this state for the safety and protection of the public. The General Assembly fully occupies and preempts the entire field of administration and regulation over ride share network services, transportation referral services, transportation referral service providers, and taxi services as governed by this part; provided, however, that the governing authority of any county or municipal airport shall be authorized to regulate any ride share network service, transportation referral service, transportation referral service provider, and taxi service consistent with the process used for limousine carriers, as set forth in Code Section 40-1-162, who are doing business at any such airport and may establish fees as part of such regulation process; provided, further, that such fees shall not exceed the airport's approximate cost of permitting and regulating ride share network services, transportation referral services, transportation referral service providers, and taxi services; and provided, further, that such governing authorities of such airports shall accept a for-hire license endorsement or private background check certification pursuant to Code Section 40-5-39 as adequate evidence of sufficient criminal background investigations and shall not require any fee for any further criminal background investigation; and provided, further, that local governments may maintain certificates of public necessity and convenience and medallion requirements and company requirements for taxi services as provided in this part and may establish maximum fares for taxi services. The list of ride share network services, transportation referral services, transportation referral service providers, and taxi services on the website of the department shall be sufficient evidence that such services have licenses issued by the department.

40-1-192.

(a) A transportation referral service or transportation referral service provider that only refers business to limousine carriers and taxi services that are licensed or registered as transportation referral service providers shall be exempt from registration under this Code section.

(b) Each transportation referral service provider doing business, operating, or providing transportation services in this state shall register with the department. Upon receipt of

registration by the department, the department shall issue a license to such transportation referral service provider which shall be renewed on an annual basis. The department may charge a fee for such license and registration not to exceed $100.00. Limousine carriers, as a part of the licensure and permitting process for limousine carriers, shall be registered and licensed as a transportation referral service provider under this part. A transportation referral service provider that receives referrals from a transportation referral service or a transportation referral service provider shall be required to disclose to the department that it is receiving referrals from such transportation referral service or transportation referral service provider; provided, however, that the limousine carrier or taxi service shall be required to comply with the requirements of this part.

(c) Each transportation referral service provider doing business, operating, or providing transportation services in this state shall file and keep current monthly with the department a list of all limousine carriers and taxi services which it utilizes to provide transportation services in this state. Such lists shall not be subject to inspection or disclosure under Article 4 of Chapter 18 of Title 50.

(d) Each transportation referral service provider doing business, operating, or providing transportation services in this state shall:

(1) Either obtain directly or determine that each taxi service to which it refers business possesses either a certificate of public necessity and convenience or medallion authorizing the provision of taxicab services in such local government if the certificate of public necessity and convenience or medallion is required by an ordinance of the local government where such taxi service is to be provided;

(2) Either obtain directly or determine that each taxi service to which it refers business is registered with the department and possesses and maintains a permit authorizing the provision of taxicab services in such local government if a company permit is required by an ordinance of the local government where such taxi service is to be provided;

(3) Either obtain directly or determine that each limousine carrier to which it refers business is properly and currently registered and licensed pursuant to Part 3 of this article;

(4) Take all necessary steps to determine that:

(A) Any driver either directly employed by or contracted with a limousine carrier which the limousine carrier contracts with or utilizes for the provision of transportation services in this state possesses and maintains any required permits or licenses required by the federal government or this state; and

(B) Any driver either directly employed by or contracted with a taxi service which the taxi service contracts with or utilizes for the provision of transportation services in this state possesses and maintains any required permits or licenses required by the federal

government or the local government where the transportation services are to be provided;

(5) Ensure that each driver utilized by such transportation referral service provider, whether such driver is employed directly by the transportation referral service provider or by a limousine carrier or taxi service which the transportation referral service provider contracts with or utilizes for the provision of transportation services in this state, has a current for-hire license endorsement or current private background check certification pursuant to Code Section 40-5-39;

(6) Have a zero tolerance policy with regard to the use of drugs or alcohol while on duty in place for drivers utilized by such limousine carrier or taxi service in the provision of transportation services, whether such driver is employed directly by the transportation referral service provider or by a limousine carrier or taxi service which the transportation referral service provider contracts with or utilizes for the provision of transportation services in this state;

(7) Shall ensure that each limousine carrier with which such transportation referral service provider contracts or utilizes for the provision of transportation services in this state has the commercial indemnity and liability insurance required by Code Section 40-1-166 or each taxi service with which such transportation referral service provider contracts or utilizes for the provision of transportation services in this state has the minimum amount of commercial liability insurance prescribed by state law;

(8) Have, as to taxi services, complied with or ensured that any taxi service which it contracts with or utilizes for the provision of transportation services complies with any fare structure or regulation prescribed by ordinance of the local government where such taxi service is to be provided; provided, however, that any fares specified in local ordinances shall be the maximum fare which may be charged but shall not prohibit a taxi service from charging lower fares;

(9) Have complied with or determined that the limousine carrier or taxi service with which the provider contracts with or utilizes for the provision of transportation services in this state is in compliance with any and all other applicable requirements prescribed by the laws of the state, the rules and regulations of the department, and the ordinances of local governments where such transportation services are provided; and

(10) Comply with the provisions of Code Section 40-8-7. No additional vehicle inspections shall be required for taxi services or limousine carriers.

(e) Failure to register according to the provisions of this Code section shall be a misdemeanor.

40-1-193.

(a) Each ride share network service doing business or operating in this state shall register with the department. Upon receipt of registration by the department, the department shall issue a license to such ride share network service which shall be renewed on an annual basis. The department may charge a fee for such license and registration not to exceed $100.00.

(b) Each ride share network service doing business or operating in this state shall maintain a current list of all ride share drivers who are enrolled in its network in this state. Such lists shall not be subject to inspection or disclosure under Article 4 of Chapter 18 of Title 50 but shall be made available for inspection by law enforcement officers and representatives of other government agencies upon request to ascertain compliance with this title.

(c) Each ride share network service doing business or operating in this state shall:

(1) Take all necessary steps to determine that each driver contracted with such ride share network service possesses and maintains any required permits or licenses required by the federal government or this state;

(2) Ensure that each driver utilized by such ride share network service, whether such driver is employed directly by the ride share network service or operates as an independent contractor, has a current for-hire license endorsement or current private background check certification pursuant to Code Section 40-5-39;

(3) Have a zero tolerance policy with regard to the use of drugs or alcohol while on duty in place for drivers contracted with such ride share network service;

(4) Have for each ride share driver contracted with such ride share network service in this state insurance coverage in effect with respect to personal injury liability, property damage liability, and personal injury protection liability benefits available to drivers, passengers, pedestrians, and others in the same coverage amounts as required by law; and

(5) Comply with the provisions of Code Section 40-8-7. No vehicle inspections shall be required for vehicles used by ride share drivers.

(d) Each ride share driver utilized by such ride share network service, whether such driver is employed directly by the ride share network service or operates as an independent contractor, shall maintain on his or her smartphone digital identification containing the following information while active on the ride share network service's digital network:

(1) The name and photograph of the driver;

(2) The make and model of the motor vehicle being driven;

(3) The license plate number of the motor vehicle being driven;

(4) Certificates of insurance for the motor vehicle being driven; and

(5) Such other information as may be required by the Department of Public Safety.

Upon reasonable suspicion of a law enforcement officer of improper operation by a ride share driver, the ride share driver, upon request, shall provide the law enforcement officer with access to the smartphone containing the digital information required by this subsection and the electronic record of the trips sufficient to establish that the trip in question was prearranged through digital dispatch of the ride share network service. The ride share driver shall not be required to relinquish custody of the smartphone containing the digital information required by this subsection and the electronic record of the trips arranged through digital dispatch of the ride share network service.

(e) A violation of this Code section shall be a misdemeanor.

40-1-194.

(a)(1)(A) No transportation referral service or transportation referral service provider subject to this part shall contract with, utilize, or refer individuals or entities to limousine carriers that are not properly licensed by this state or are not properly insured under state law.

(B) No ride share network service subject to this part shall contract with, utilize, or refer individuals or entities to ride share drivers who are not properly licensed by this state or are not properly insured under state law.

(2) No transportation referral service or transportation referral service provider subject to this part shall contract with, utilize, or refer individuals or entities to taxi services that are not registered with the department and properly licensed by the applicable political subdivision of this state, are not properly insured under local law, or use drivers that are not properly licensed under state and local law to carry passengers for hire.

(b)(1)(A) No person who is not licensed under the laws of this state to provide limousine services shall contract with or accept referrals from a transportation referral service, transportation referral service provider, or ride share network service for transportation services. This paragraph shall not apply to passengers.

(B) No ride share driver who does not have an appropriate driver's license and either a for-hire endorsement or current private background check certification pursuant to Code Section 40-5-39 shall contract with or accept referrals from a transportation referral service, transportation referral service provider, or ride share network service for transportation services.

(2) No person who does not have the licensing required by the appropriate local government of this state to provide taxi services shall contract with or accept referrals from a transportation referral service or transportation referral service provider for transportation services. This paragraph shall not apply to passengers.

(c)(1) A transportation referral service that violates subsection (a) of this Code section shall be guilty of a misdemeanor.

(2) A transportation referral service provider or ride share network service that violates subsection (a) of this Code section shall be guilty of a misdemeanor and additionally shall be subject to having such provider's or service's registration suspended or revoked by the department.

(d) A person who violates subsection (b) of this Code section shall be guilty of a misdemeanor and additionally may be subject to a suspension for one year or revocation of such person's driver's license.

40-1-195.

(a) Each taxi service, transportation referral service, transportation referral service provider, and ride share network service doing business, operating, or providing transportation services in this state shall include its license number issued by the department in any advertising in this state; provided, however, that this Code section shall not apply to Internet advertisements. Limousine carriers which register as transportation referral service providers under this part shall be subject to the advertising requirements of this Code Section and not the provisions of Code Section 40-1-165. Failure to provide such license number shall result in the imposition of a civil penalty not to exceed $5,000.00 for each violation.

(b) Each ride share driver shall display a consistent and distinctive signage or emblem that is approved by the Department of Public Safety on such ride share driver's vehicle at all times while the ride share driver is active on the ride share network service's digital network. The signage or emblem shall be:

(1) Sufficiently large and color contrasted to be readable during daylight hours from a distance of at least 50 feet;

(2) Reflective, illuminated, or otherwise visible in darkness; and

(3) Sufficient to identify a vehicle as being associated with the ride share network service with which the ride share driver is affiliated.

Any person who violates this subsection shall be guilty of a misdemeanor.

40-1-196.

(a) Rates for taxi services set by a local government shall constitute the maximum fare which may be charged but shall not prohibit a taxi service from charging lower fares. Transportation services provided by taxi services and arranged by a transportation referral service or transportation referral service provider doing business in this state shall be billed in accordance with the fare rates prescribed by the local government where such taxi

services are to be provided. The use of Internet or cellular telephone software to calculate rates shall not be permitted unless such software complies with and conforms to the weights and measures standards of the local government that licenses such taxi service.

(b) Transportation services provided by limousine carriers and arranged by a transportation referral service or transportation referral service provider shall only be billed in accordance with the rates of such limousine carriers on an hourly basis or upon one or more of the following factors: distance, flat fee, base fee, waiting time, cancellation fee, stop fee, event pricing, demand pricing, or time. The charge for such transportation services may be calculated by the use of a metering device in or affixed to the motor vehicle.

(c) A ride share driver contracted with a ride share network service may offer transportation services at no charge, suggest a donation, or charge a fare. If a ride share driver contracted with a ride share network service charges a fare, such fare shall be calculated based upon one or more of the following factors: distance, flat fee, base fee, waiting time, cancellation fee, stop fee, event pricing, demand pricing, or time. The fare may be calculated by the use of a metering device in or affixed to the motor vehicle.

(d) Each transportation referral service, transportation referral service provider, and ride share network service shall make available to the person being transported prior to receiving transportation services either the amount of the charge for such services or the rates under which the charge will be determined.

(e) A violation of this Code section shall be a misdemeanor.

40-1-197.

The department is authorized to promulgate such rules and regulations as the department shall find necessary to implement the provisions of this part.

40-1-198.

(a) Each transportation referral service provider shall maintain a current list of all drivers that such provider employs directly or as independent contractors in this state. Such lists shall not be subject to inspection or disclosure under Article 4 of Chapter 18 of Title 50 but shall be made available for inspection by law enforcement officers and representatives of other government agencies upon request to ascertain compliance with this title.

(b) A violation of this Code section shall be punished by the imposition of a civil penalty not to exceed $5,000.00 for each violation.

40-1-199.

A waiver of any rights with regard to personal injuries as the result of any transportation services provided by such ride share network service, transportation referral service,

transportation referral service provider, limousine carrier, or taxi service by any person utilizing the services of a ride share network service, transportation referral service, transportation referral service provider, limousine carrier, or taxi service in this state shall not be valid unless such person is given written or electronic notice of such waiver prior to receiving such services and knowingly and willfully agrees to such waiver.

40-1-200.

This part shall not be applicable to equine drawn vehicles or nonmotorized vehicles.″

SECTION 4.

Said title is further amended by revising Code Section 40-2-168, relating to registration and licensing of taxicabs and limousines, as follows:

″40-2-168.

(a) Owners of a taxicab or limousine, prior to commencing operation in this state, shall, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles, and the payment of an annual registration fee of $25.00, be issued a distinctive license plate by the commissioner. Such distinctive license plate shall be designed by the commissioner and displayed on the vehicle as provided in Code Section 40-2-41. The certificate of registration shall be kept in the vehicle. Revalidation decals shall be issued, upon payment of fees required by law, in the same manner as provided for general issue license plates. Such license plates shall be transferred from one vehicle to another vehicle of the same class and acquired by the same person as provided in Code Section 40-2-42. ~~The transition period shall commence on May 20, 2010, and conclude no later than December 31, 2010, for all existing registrations.~~ For all existing registrations, except during the owner's registration period as provided in Code Section 40-2-21, the commissioner shall exchange and replace any current and valid registration and license plate at no charge to the owner. Such license plates shall not be issued to any owner of a taxicab or limousine, as such term is defined in paragraph (4) of Code Section 40-1-151, that is not properly licensed as such by the Department of Public Safety or a political subdivision of this state.

(b)(1) As used in this subsection, the term 'for-hire vehicle' means a motor vehicle used in this state by a limousine carrier, ride share network, ride share network driver, or taxi service, as such terms are defined in Code Section 40-1-190, for the purpose of transporting passengers for compensation or donation.

(2) On and after July 1, 2017, an owner of each for-hire vehicle, prior to commencing operations in this state and annually thereafter, shall obtain a for-hire vehicle master license from the department. The department shall issue a decal or certificate for each

motor vehicle covered under such master license, and the owner shall display such decal on such vehicle at all times in the manner prescribed by the department by rule or regulation or shall maintain a copy of the certificate in the covered vehicle or electronically on the driver's smartphone which certificate shall be displayed to law enforcement personnel or agents of the department upon request. With regard to ride share drivers who are employed directly by a ride share network service or who operate as independent contractors for a ride share network service, the ride share network service shall be responsible for obtaining a master license for all of its affiliated ride share drivers. The obtaining of a master license shall not operate to relieve a taxi service, a limousine carrier, a ride share network service, or the owner of a for-hire vehicle from sales and use taxes on fares which were previously incurred.

(3) The owner of each for-hire vehicle in operation in this state on July 1, 2017, shall obtain a for-hire master license from the department prior to such date and shall obtain a decal or certificate for each motor vehicle covered under such master license, and the owner shall either display such decal on such vehicle at all times in the manner prescribed by the department by rule or regulation or shall maintain a copy of the certificate in the covered vehicle or electronically on the driver's smartphone which certificate shall be displayed to law enforcement personnel or agents of the department upon request. With regard to ride share drivers who are employed directly by a ride share network service or who operate as independent contractors for a ride share network service, the ride share network service shall be responsible for obtaining a master license for all of its affiliated ride share drivers. The obtaining of a master license shall not operate to relieve a taxi service, a limousine carrier, a ride share network service, or the owner of a for-hire vehicle from sales and use taxes on fares which were previously incurred.

(4) The annual fee for such master license shall be as follows:

(A) For 1 to 5 for-hire vehicles $1,500.00

(B) For 6 to 59 for-hire vehicles 12,050.00

(C) For 60 to 100 for-hire vehicles 25,000.00

(D) For 101 to 150 for-hire vehicles 40,000.00

(E) For 151 to 200 for-hire vehicles 56,000.00

(F) For 201 to 250 for-hire vehicles 75,000.00

(G) For 251 to 300 for-hire vehicles 90,000.00

(H) For 301 to 350 for-hire vehicles 105,000.00

(I) For 351 to 500 for-hire vehicles 150,000.00

(J) For 501 to 1,000 for-hire vehicles 300,000.00

(K) For 1,001 and greater for-hire vehicles 300,000.00

plus $25,000.00 for each

additional 100 vehicles or fraction thereof.

Decals or certificates shall be issued in connection with the master license at no charge by the department. The number of vehicles shall be determined by adding the number of for-hire vehicles utilized by the owner during each of the preceding months in the immediately preceding 12 month period and dividing such sum by 12.

(5) Of this annual master license fee, 57 percent shall be retained by the state for deposit in the general fund of the state treasury. At the time of payment of the annual master license fee, the owner obtaining the master license shall provide to the department a written declaration setting forth the county or counties in which vehicles operate. The remaining 43 percent of the annual master license fee shall be divided by the department proportionately according to population to the county or counties set forth in such declaration. The proportional amounts shall be distributed to the county tag agent in each such county to allocate and distribute to the county governing authority and to municipal governing authorities, the board of education of the county school system, and the board of education of any independent school system located in such county in the manner provided in this paragraph:

(A) An amount equal to one-third of such proceeds shall be distributed to the board of education of the county school system and the board of education of each independent school system located in such county in the same manner as required for any local sales and use tax for educational purposes levied pursuant to Part 2 of Article 3 of Chapter 8 of Title 48 currently in effect. If such tax is not currently in effect, such proceeds shall be distributed to such board or boards of education in the same manner as if such tax were in effect;

(B)(i) Except as otherwise provided in this subparagraph, an amount equal to one-third of such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county in the same manner as specified under the distribution certificate for the joint county and municipal sales and use tax under Article 2 of Chapter 8 of Title 48 currently in effect;

(ii) If such tax were never in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county on a pro rata basis according to the ratio of the population that each such municipality bears to the population of the entire county;

(iii) If such tax is currently in effect as well as a local option sales and use tax for educational purposes levied pursuant to a local constitutional amendment, an amount equal to one-third of such proceeds shall be distributed in the same manner as

required under division (i) of this subparagraph and an amount equal to one-third of such proceeds shall be distributed to the board of education of the county school system;

(iv) If such tax is not currently in effect and a local option sales and use tax for educational purposes levied pursuant to a local constitutional amendment is currently in effect, such proceeds shall be distributed to the board of education of the county school system and the board of education of any independent school system in the same manner as required under such local constitutional amendment; and

(v) If such tax is not currently in effect and a homestead option sales and use tax under Article 2A of Chapter 8 of Title 48 is in effect, such proceeds shall be distributed to the governing authority of the county, each qualified municipality, and each existing municipality in the same proportion as otherwise required under Code Section 48-8-104; and

(C)(i) An amount equal to one-third of such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county in the same manner as specified under an intergovernmental agreement or as otherwise required under the county special purpose local option sales and use tax under Part 1 of Article 3 of Chapter 8 of Title 48 currently in effect; provided, however, that this division shall not apply if division (iii) of subparagraph (B) of this paragraph is applicable.

(ii) If such tax were in effect but expired and is not currently in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county in the same manner as if such tax were still in effect according to an intergovernmental agreement or as otherwise required under the county special purpose local option sales and use tax under Part 1 of Article 3 of Chapter 8 of Title 48 for the 12 month period commencing at the expiration of such tax. If such tax is not renewed prior to the expiration of such 12 month period, such amount shall be distributed in accordance with division (i) of subparagraph (B) of this paragraph; provided, however, that if a tax under Article 2 of Chapter 8 of Title 48 is not in effect, such amount shall be distributed in accordance with division (ii) of subparagraph (B) of this paragraph.

(iii) If such tax is not currently in effect in a county in which a tax is levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution; and the laws enacted pursuant to such constitutional amendment, such proceeds shall be

distributed to the governing body of the authority created by local Act to operate such metropolitan area system of public transportation.

(iv) If such tax were never in effect, such proceeds shall be distributed in the same manner as specified under the distribution certificate for the joint county and municipal sales and use tax under Article 2 of Chapter 8 of Title 48 currently in effect; provided, however, that if such tax under such article is not in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county on a pro rata basis according to the ratio of the population that each such municipality bears to the population of the entire county.

(6) On and after July 1, 2017, it shall be illegal for a taxi service, a limousine carrier, a ride share network service, or an owner of a for-hire vehicle who is providing transportation services to fail to display a current tax decal or maintain a physical or electronic certificate in such vehicle as prescribed by this subsection and as may be required by the department by rule or regulation. Any person who violates this paragraph shall be guilty of a misdemeanor of a high and aggravated nature and additionally shall be subject to a civil fine of not more than $5,000.00 per violation.

(7) This subsection shall be repealed by operation of law on July 1, 2017.″

SECTION 5.

Said title is further amended by revising paragraphs (9) and (11) of Code Section 40-5-1, relating to definitions, and adding new paragraphs to read as follows:

″(9) ~~Reserved~~ 'For hire' means to operate a motor vehicle in this state for the purpose of transporting passengers for compensation or donation as a limousine carrier, ride share network or driver, or taxi service as such terms are defined in Code Section 40-1-190.

(9.1) 'For-hire license endorsement' means an endorsement to a driver's license pursuant to Code Section 40-5-39 that authorizes the holder of the license to operate a motor vehicle for the purpose of transporting passengers in this state for compensation or donation as a limousine carrier, ride share network or driver, or taxi service as such terms are defined in Code Section 40-1-190.″

″(11) ~~Reserved~~ 'Limousine carrier' means any limousine company or provider which is licensed with this state pursuant to paragraph (5) of Code Section 40-1-151.″

″(16.01) 'Ride share driver' means an individual who uses his or her personal passenger car, as defined in paragraph (41) of Code Section 40-1-1, to provide transportation for passengers arranged through a ride share network service.

(16.02) 'Ride share network service' means any person or entity that uses a digital network or Internet network to connect passengers to ride share drivers for the purpose

of prearranged transportation for hire or for donation. The term 'ride share network service' shall not include any corporate sponsored vanpool or exempt rideshare as such terms are defined in Code Section 40-1-100, provided that such corporate sponsored vanpool or exempt rideshare is not operated for the purpose of generating a profit.″

″(18) 'Taxi service' means any taxicab company or provider which utilizes a motor vehicle or similar vehicle, device, machine, or conveyance to transport passengers; uses a taximeter; and is registered with the Department of Public Safety and, if applicable, is authorized to provide taxicab services pursuant to an ordinance of a local government in this state.″

SECTION 6.

Said title is further amended by revising Code Section 40-5-39, relating to endorsement on license of limousine chauffeur, requirements, and term, as follows:

″40-5-39.

(a) No person shall operate a motor vehicle for hire in this state unless such person:

(1) Has a for-hire license endorsement pursuant to this Code section and has liability insurance coverage in the amounts required by law for the class of motor vehicle being operated for hire and the requirements for limousine carriers, ride share networks and drivers, and taxi services, as applicable; or

(2) Has a private background check certification pursuant to this Code section and has liability insurance coverage in the amounts required by law for the class of motor vehicle being operated for hire and the requirements for limousine carriers, ride share networks and drivers, and taxi services, as applicable.

This shall include, but not be limited to, ride share drivers and persons operating motor vehicles for limousine carriers and taxicabs for taxi services.

~~(a)~~(b) The department shall ~~endorse the driver's license of any approved limousine chauffeur employed by a limousine carrier~~ provide a for-hire license endorsement for any qualified person under this Code section. In order to be eligible for such endorsement, an applicant shall:

(1) Be at least 18 years of age;

(2) Possess a valid Georgia driver's license which is not limited as defined in Code Section 40-5-64;

(3) Not have been convicted, been on probation or parole, or served time on a sentence for a period of ~~ten~~ seven years previous to the date of application for any felony or any other crime of moral turpitude or a pattern of misdemeanors that evidences a disregard for the law unless he or she has received a pardon and can produce evidence of same. For the purposes of this paragraph, a plea of nolo contendere shall be considered to be a

conviction, and a conviction for which a person has been free from custody and free from supervision for at least ~~ten~~ seven years shall not be considered a conviction unless the conviction is for a dangerous sexual offense which is contained in Code Section 42-1-12 or the criminal offense was committed against a victim who was a minor at the time of the offense;

(4) Submit at least one set of classifiable electronically recorded fingerprints to the department in accordance with the fingerprint system of identification established by the director of the Federal Bureau of Investigation. The department shall transmit the fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and promptly conduct a search of state records based upon the fingerprints. After receiving the report from the Georgia Crime Information Center and the Federal Bureau of Investigation, the department shall determine whether the applicant may be certified; ~~and~~

(5) Be a United States citizen, or if not a citizen, present federal documentation verified by the United States Department of Homeland Security to be valid documentary evidence of lawful presence in the United States under federal immigration law; and

(6) Provide proof of liability insurance coverage in such amounts as provided by law for the class of motor vehicle being operated for hire and the requirements for limousine carriers, ride share networks and drivers, and taxi services, as applicable.

~~(b)~~(c) Such endorsement shall be valid for the same term as such person's driver's license, provided that each person seeking renewal of a driver's license with such endorsement shall submit to a review of his or her criminal history for verification of his or her continued eligibility for such endorsement prior to making application for such renewal using the same process set forth in subsection ~~(a)~~ (b) of this Code section. If such person no longer satisfies the background requirements set forth herein, he or she shall not be eligible for the inclusion of such endorsement on his or her driver's license, and it shall be renewed without the endorsement.

~~(c)~~(d) Every ~~chauffeur employed by a limousine carrier~~ person who operates a motor vehicle for hire in this state shall have his or her Georgia driver's license with the prescribed for-hire license endorsement in his or her possession at all times while operating a motor vehicle ~~of a limousine carrier~~ for hire in this state or shall have his or her Georgia driver's license and a private background check certification pursuant to subsection (e) of this Code section in his or her possession. Such driver's license with a for-hire endorsement or such driver's license and private background check certification shall be presented to a law enforcement officer upon request by such officer.

(e)(1) A person operating a motor vehicle for hire in this state may obtain a private background check in lieu of obtaining a for-hire endorsement. Such background check shall be conducted by the taxi service, limousine carrier, or ride share network service that employs such driver.

(2) The taxi service, limousine carrier, or ride share network service shall require such person to submit an application to the taxi service, limousine carrier, or ride share network service which includes, but is not limited to, information regarding such person's address, age, driver's license information and number, driving history, motor vehicle registration, automobile liability insurance, and other information necessary to complete a background check on such person.

(3) The taxi service, limousine carrier, or ride share network service shall conduct or cause to be conducted a local and national criminal background check on such person which shall include:

(A) A search of a multistate, multijurisdiction criminal records locator or similar nation-wide data base with validation or primary source search;

(B) A search of the national sex offender registry data base; and

(C) The obtaining and review of a driving history research report.

(4) The taxi service, limousine carrier, or ride share network service shall review the background check and issue a private background check certification to such person; provided, however, that no such certification shall be issued to a person whose background check discloses that such person:

(A) Has had more than three moving violations in the prior three-year period or has one major traffic violation, as such term is defined in Code Section 40-5-142, in the prior three-year period;

(B) Has been convicted within the past seven years of driving under the influence of drugs or alcohol or has been convicted at any time of fraud, a sexual offense, the use of a motor vehicle to commit a felony, a crime involving property damage, a crime involving theft, a crime involving an act of violence, or a crime involving an act of terror;

(C) Has a match on the national sex offender registry data base;

(D) Does not have a valid driver's license;

(E) If such person will be using such person's vehicle as the motor vehicle to be operated for hire, does not possess proof of registration for such vehicle;

(F) Does not possess proof of liability insurance coverage in such amounts as provided by law for the class of motor vehicle being operated for hire and the requirements for limousine carriers, ride share networks and drivers, and taxi services, as applicable; and

(G) Is not at least 18 years of age.

(5) Such private background check certification shall be issued in written form or in a form which may be displayed electronically on a smartphone. A digital identification properly issued pursuant to subsection (d) of Code Section 40-1-193 shall constitute sufficient certification of a private background check. Such private background check certification shall be valid for a period of five years from the date of its issuance.

~~(d)~~(f) The department is authorized to promulgate rules and regulations as necessary to implement this Code section.

(g) Any person who violates the provisions of this Code section shall be guilty of a misdemeanor."

SECTION 7.

Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use taxes, is amended by revising paragraph (25), which was previously reserved, as follows:

"(25) ~~Reserved~~ On and after July 1, 2017, fares of for-hire vehicles for which taxi services, limousine carriers, ride share network services, or the owners of such vehicles have purchased a for-hire master license in lieu of paying sales and use taxes on fares pursuant to the provisions of subsection (b) of Code Section 40-2-168. This provision shall not relieve taxi services, limousine carriers, transportation referral services, transportation referral service providers, or ride share service networks of sales and use tax liability on fares incurred prior to the purchase of such for-hire master license. This paragraph shall be repealed by operation of law on July 1, 2017;".

SECTION 8.

Sections 2, 3, 5, and 6 of this Act shall become effective on July 1, 2015. Sections 4 and 7 shall be come effective on July 1, 2016. The remaining sections of this Act shall become effective upon the approval of this Act by the Governor or upon this Act becoming law without such approval.

SECTION 9.

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

House Bill 234 (AS PASSED HOUSE AND SENATE)

By: Representatives Rutledge of the 109th, Powell of the 171st, Duncan of the 26th, Pak of the 108th, Strickland of the 111th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Article 2 of Chapter 2 of Title 48 of the Official Code of Georgia Annotated, relating to administration and enforcement of tax collection, so as to include days on which the Federal Reserve Bank is closed in the list of days that excuse late filing or payment; 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 2 of Title 48 of the Official Code of Georgia Annotated, relating to administration and enforcement of tax collection, is amended by revising Code Section 48-2-39, relating to times when the date for payment of taxes or filing of returns falls on a holiday, as follows:

"48-2-39.

When the date prescribed by or imposed pursuant to law for the making of any return, the filing of any paper or document, or the payment of any tax or license fee pursuant to this title or any law relating to the taxation and licensing of automobiles, trucks, or trailers falls on a Saturday, Sunday, ~~or~~ legal holiday<u>, or day on which the Federal Reserve Bank is closed</u>, the making of the return, the filing of the paper or document, or the payment of the tax or license fee shall be postponed by the person required to take such action until the first day following which is not a Saturday, Sunday, ~~or~~ legal holiday<u>, or day on which the Federal Reserve Bank is closed</u>."

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.

House Bill 322 (AS PASSED HOUSE AND SENATE)

By: Representatives Strickland of the 111th, Ramsey of the 72nd, Mabra of the 63rd, Frye of the 118th, Jones of the 62nd, and others

A BILL TO BE ENTITLED

AN ACT

To amend Title 44 of the Official Code of Georgia Annotated, relating to property, so as to change and clarify provisions relating to the witnessing requisites of deeds, mortgages, and bills of sale; to provide a procedure for claiming certain United States savings bonds; to provide for the filing of deeds under power within a certain time after a foreclosure sale; to provide for the assessment and collection of a late filing fee; to provide for the remittance of sums collected from such late filing fees; 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 44 of the Official Code of Georgia Annotated, relating to property, is amended by revising Code Section 44-5-30, relating to the requisites of deed to land, as follows:

"44-5-30.

Except for documents electronically filed as provided for in Chapter 12 of Title 10 and Part 1 of Article 1 of Chapter 2 of this title, a deed to lands shall be an original document, in writing, signed by the maker, ~~and~~ attested by ~~at least two witnesses~~ <u>an officer as provided in Code Section 44-2-15, and attested by one other witness</u>. It shall be delivered to the purchaser or his or her representative and be made on a good or valuable consideration. The consideration of a deed may always be inquired into when the principles of justice require it."

SECTION 2.

Said title is further amended by inserting two new Code sections, to read as follows:

"<u>44-12-237.</u>

<u>(a) Notwithstanding the provisions of subsection (a) of Code Section 44-12-216, United States savings bonds which are unclaimed property and subject to the provisions of Code Section 44-12-190, et seq., the 'Disposition of Unclaimed Property Act,' shall escheat to the State of Georgia three years after becoming unclaimed property and subject to the</u>

provisions of Code Section 44-12-190, et seq., and all property rights to such United States savings bonds or proceeds from such bonds shall vest solely in the State of Georgia.

(b) If, within 180 days after the passage of three years pursuant to subsection (a) of this Code section, no claim has been filed in accordance with the provisions of Code Section 44-12-190, et seq., for such United States savings bonds, the commissioner shall commence a civil action in the Superior Court of Fulton County for a determination that such United States savings bonds shall escheat to the state. The commissioner may postpone the bringing of such action until sufficient United States savings bonds have accumulated in the commissioner's custody to justify the expense of such proceedings.

(c) If no person shall file a claim or appear at the hearing to substantiate a claim or if the court shall determine that a claimant is not entitled to the property claimed, then the court, if satisfied by evidence that the commissioner has substantially complied with the laws of this state, shall enter a judgment that the subject United States savings bonds have escheated to the state.

(d) The commissioner shall redeem such United States savings bonds, and the proceeds shall be deposited in the state general fund in accordance with the provisions of Code Section 44-12-218.

44-12-238.

Any person making a claim for the United States savings bonds escheated to the state under Code Section 44-12-237, or for the proceeds from such bonds, may file a claim in accordance with the provisions of Code Section 44-12-190, et seq., the 'Disposition of Unclaimed Property Act.' Upon providing sufficient proof of the validity of such person's claim, the commissioner may pay such claim in accordance with the provisions of Code Section 44-12-190, et seq.″

SECTION 3.

Said title is further amended by revising Code Section 44-14-33, relating to attestation or acknowledgment of mortgage, as follows:

″44-14-33.

In order to admit a mortgage to record, it ~~must be attested by or acknowledged before an officer as prescribed for the attestation or acknowledgment of deeds of bargain and sale; and, in the case of real property, a mortgage must also be attested or acknowledged by one additional witness~~ shall be signed by the maker, attested by an officer as provided in Code Section 44-2-15, and attested by one other witness. In the absence of fraud, if a mortgage is duly signed, witnessed, filed, recorded, and indexed on the appropriate county land

records, such recordation shall be deemed constructive notice to subsequent bona fide purchasers.″

SECTION 4.

Said title is further amended by revising Code Section 44-14-34, relating to attestation and acknowledgment or probation of mortgages executed outside of this state, as follows:

″44-14-34.

When executed outside this state, mortgages ~~may be attested, acknowledged, or probated in the same manner as deeds of bargain and sale~~ shall be signed by the maker, attested by an officer as provided in Code Section 44-2-15, and attested by one other witness.″

SECTION 5.

Said title is further amended by revising Code Section 44-14-37, relating to the effect of the failure to record a mortgage, as follows:

″44-14-37.

~~The effect of a failure to record a mortgage shall be the same as the effect of a failure to record a deed of bargain and sale~~ Reserved.″

SECTION 6.

Said title is further amended by revising Code Section 44-14-61, relating to attestation of deeds to secure debt and bills of sale, generally, as follows:

″44-14-61.

In order to admit deeds to secure debt or bills of sale to secure debt to record, they shall be ~~attested or proved in the manner prescribed by law for mortgages~~ signed by the maker, attested by an officer as provided in Code Section 44-2-15, and attested by one other witness.″

SECTION 7.

Said title is further amended by revising Code Section 44-14-62, relating to attestation of deeds to secure debt and bills of sale executed outside of this state, as follows:

″44-14-62.

When executed ~~out of~~ outside this state, deeds to secure debt and bills of sale ~~may be attested, acknowledged, or probated in the same manner as deeds of bargain and sale~~ to secure debt shall be signed by the maker, attested by an officer as provided in Code Section 44-2-15, and attested by one other witness.″

SECTION 8.

Said title is further amended by revising subsection (a) of Code Section 44-14-63, relating to recording of deeds to secure debt and bills of sale to secure debt, as follows:

"(a) Every deed to secure debt shall be recorded in the county where the land conveyed is located. Every bill of sale to secure debt shall be recorded in the county where the maker, if a resident of this state, resided at the time of its execution and, if a nonresident, in the county where the personalty conveyed is located. Deeds to secure debt or bills of sale to secure debt not recorded shall remain valid against the persons executing them. ~~The effect of the failure to record deeds and bills of sale shall be the same as the effect of the failure to record a deed of bargain and sale.~~"

SECTION 9.

Said title is further amended by revising Code Section 44-14-160, relating to recording of foreclosure sales and deeds under power, as follows:

"44-14-160.

(a) Within 90 days of a foreclosure sale, all deeds under power shall be ~~recorded~~ filed by the holder of a deed to secure debt or a mortgage with the clerk of the superior court of the county or counties in which the foreclosed property is located. The clerk shall ~~write in the margin of the page where~~ record and cross reference the deed under power to the deed to secure debt or mortgage foreclosed upon ~~is recorded the word 'foreclosed' and the deed book and page number on which is recorded the deed under power conveying the real property; provided, however, that, in counties where the clerk keeps the records affecting real estate on microfilm, the notation provided for in this Code section shall be made in the same manner in the index or other place where the clerk records transfers and cancellations of deeds to secure debt~~. The deed under power shall be indexed pursuant to standards promulgated by the Georgia Superior Court Clerks' Cooperative Authority.

(b) In the event the deed under power is not filed within 30 days after the time period set forth in subsection (a) of this Code section, the holder shall be required to pay a late filing penalty of $500.00 upon filing in addition to the required filing fees provided for in subsection (f) of Code Section 15-66-77. Such late filing penalty shall be collected by the clerk of the superior court before filing.

(c) The sums collected as a late filing penalty under subsection (b) of this Code section shall be remitted to the governing authority of the county. If the foreclosed property is located within a municipality, the governing authority of the county shall remit the late filing penalty for such property to the governing authority of such municipality within 30 days of its receipt of the penalty. For each late filing penalty for property located within

the corporate limits of a municipality, the governing authority of the county may withhold a 5 percent administrative processing fee from the remittance to such municipality.″

SECTION 10.

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

House Bill 374 (AS PASSED HOUSE AND SENATE)

By: Representatives Nix of the 69th, Shaw of the 176th, Carter of the 175th, England of the 116th, Williams of the 119th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to exemptions from ad valorem taxation, so as to clarify an exemption for certain leased farm equipment; to amend Part 5 of Article 10 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to an exemption from ad valorem taxation for certain farm equipment held for sale in dealer inventory, so as to provide for additional qualifications; 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 exemptions from ad valorem taxation, is amended by revising subsection (c) of Code Section 48-5-41.1, relating to an exemption for qualified farm products, as follows:

"(c)(1) As used in this subsection, the term 'lease purchase agreement' means a financing agreement under which:

(A) A family owned qualified farm products producer has possession and control of farm tractors, combines, or other farm equipment other than motor vehicles equipment and uses such farm equipment directly in the production of agricultural products; and

(B) The payments made pursuant to such financing agreement are credited towards the purchase of such farm equipment.

(2) Farm tractors, combines, and all other farm equipment other than motor vehicles, whether fixed or mobile, which are owned by or held under a lease purchase agreement and directly used in the production of agricultural products by family owned qualified farm products producers shall be exempt from all ad valorem property taxes in this state."

SECTION 2.

Part 5 of Article 10 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to an exemption from ad valorem taxation for certain farm equipment held for sale

in dealer inventory, is amended by revising Code Section 48-5-504, relating to self-propelled farm equipment as a subclassification of motor vehicle for ad valorem taxation purposes, as follows:

"48-5-504.

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

(1) 'Dealer' means any person who is engaged in the business of selling farm equipment at retail.

(2) 'Farm equipment' means any vehicle as defined in Code Section 40-1-1 which is self-propelled and which is designed and used primarily for agricultural, horticultural, forestry, or livestock raising operations.

(b) Self-propelled farm equipment which is owned by a dealer and held in inventory for sale or resale shall constitute a separate subclassification of motor vehicle within the motor vehicle classification of tangible property for ad valorem taxation purposes. The procedures prescribed in this chapter for returning self-propelled farm equipment for ad valorem taxation, determining the application rates for taxation, and collecting the ad valorem taxes imposed on self-propelled farm equipment do not apply to self-propelled farm equipment which is owned by a dealer and held in inventory for sale or resale. Such self-propelled farm equipment which is owned by a dealer and held in inventory for sale or resale shall not be returned for ad valorem taxation, shall not be taxed, and no taxes shall be collected on such self-propelled farm equipment until it is transferred and then otherwise, if at all, becomes subject to taxation as provided in this chapter."

SECTION 3.

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

House Bill 457 (AS PASSED HOUSE AND SENATE)

By: Representatives Hawkins of the 27th, Rogers of the 29th, Clark of the 98th, Dunahoo of the 30th, Coleman of the 97th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Part 7 of Article 10 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to watercraft held in inventory, so as to provide that watercraft held in inventory shall be exempt from ad valorem taxation; 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.

Part 7 of Article 10 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to watercraft held in inventory, is amended by revising Code Section 48-5-504.40, relating to watercraft held in inventory for resale exempt from taxation for limited period of time, as follows:

"48-5-504.40.

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

(1) 'Dealer' means any person who is engaged in the business of selling watercraft at retail.

(2) 'Watercraft' means any vehicle which is self-propelled or which is capable of self-propelled water transportation, or both.

(b) Watercraft ~~which is~~ owned by a dealer and held in inventory for sale or resale shall constitute a separate classification of tangible property for ad valorem taxation purposes. The procedures prescribed in this chapter for returning watercraft for ad valorem taxation, determining the application rates for taxation, and collecting the ad valorem taxes imposed on watercraft do not apply to watercraft ~~which is~~ owned by a dealer and held in inventory for sale or resale. For the period commencing January 1, ~~2009~~ 2016, and concluding December 31, ~~2013~~ 2019, such watercraft ~~which is~~ owned by a dealer and held in inventory for sale or resale shall not be returned for ad valorem taxation~~,~~ and shall not be taxed, and

no taxes shall be collected on such watercraft until it is transferred and then otherwise, if at all, becomes subject to taxation as provided in this chapter.″

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 tax years beginning on and after January 1, 2016, and ending on December 31, 2019.

SECTION 3.

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

Senate Bill 82

By: Senators Wilkinson of the 50th, Ginn of the 47th, Gooch of the 51st, Williams of the 19th and Mullis of the 53rd

AS PASSED

A BILL TO BE ENTITLED

AN ACT

To amend Code Section 40-2-152 of the Official Code of Georgia Annotated, relating to fees and alternative ad valorem taxation of apportionable vehicles, so as to revise and change, for a limited period of time, certain provisions regarding the distribution of alternative ad valorem tax proceeds; to provide for automatic repeal; to amend Article 5 of Chapter 12 of Title 44 of the Official Code of Georgia Annotated, relating to disposition of unclaimed property, so as to change provisions relating to publication of notices of unclaimed property; to provide for the retention of administrative expenses; 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 40-2-152 of the Official Code of Georgia Annotated, relating to fees and alternative ad valorem taxation of apportionable vehicles, is amended by revising subsection (m) and adding a new subsection to read as follows:

"(m)(1) The alternative ad valorem tax imposed by this Code section shall be collected by the commissioner and shall be distributed annually from the separate, segregated fund not later than ~~April~~ August 1 of the calendar year immediately following the calendar year in which such taxes were paid to the commissioner, in the manner provided for in this subsection.

(2)(A) One percent of the alternative ad valorem tax collected by the commissioner shall be paid into the general fund of the state treasury in order to defray costs of administration.

(B) Except for the amount provided in subparagraph (A) of this paragraph, the remaining proceeds of the alternative ad valorem tax shall be allocated by county based upon the ratio of the number of apportioned vehicles attributed by the commissioner on an annual basis to each county to the number of apportioned vehicles submitted to and approved by the commissioner statewide. The proceeds so allocated shall then be

distributed to each qualified tax jurisdiction within the county based upon the ratio of the most recently submitted and approved tax digest for each such qualified tax jurisdiction to the total of all tax digests of qualified tax jurisdictions located in the county. Qualified jurisdictions include only counties, municipalities, county school districts, and independent school districts which levy or cause to be levied for their benefit a property tax on real and tangible personal property.

~~(2) Each year, the distributions of alternative ad valorem tax proceeds under this subsection shall be based upon the immediately preceding year's tax digest of each participating tax authority submitted to and approved by the commissioner. If such digest has not been submitted and approved, the commissioner shall, for purposes of this subsection, utilize in its place the most recently submitted and approved tax digest of such participating tax jurisdiction.~~

~~(3)(A) One percent of the alternative ad valorem tax collected by the commissioner shall be paid into the general fund of the state treasury in order to defray costs of administration.~~

~~(B) Except for the amount provided in subparagraph (A) of this paragraph, the remaining proceeds of the alternative ad valorem tax shall be divided among each tax jurisdiction of this state. Such tax jurisdictions shall be limited to only a county, municipality, county school district, and independent school district which levies or causes to be levied for their benefit a property tax on real and tangible personal property.~~

~~(C) The distribution shall be made according to the proportion that the amount of ad valorem taxes to be collected by a tax jurisdiction under the tax digest specified under paragraph (2) of this subsection bears to the total amount of ad valorem taxes to be collected for all purposes applicable to real and tangible personal property in this state for the immediately preceding calendar year.~~

(n)(1) The provisions of subsection (m) of this Code section shall be suspended for the 2015, 2016, 2017, 2018, and 2019 tax years, and the provisions of this subsection shall apply during such period. This subsection shall stand repealed on January 1, 2020.

(2) The alternative ad valorem tax imposed by this Code section shall be collected by the commissioner and shall be distributed annually from the separate, segregated fund not later than April 1 of the calendar year immediately following the calendar year in which such taxes were paid to the commissioner, in the manner provided for in this subsection.

(3) Except as provided in paragraph (4) of this subsection, each year, the distributions of alternative ad valorem tax proceeds under this subsection shall be based upon the immediately preceding year's tax digest of each qualified tax authority submitted to and approved by the commissioner. If such digest has not been submitted and approved, the

commissioner shall, for purposes of this subsection, utilize in its place the most recently submitted and approved tax digest of such qualified tax jurisdiction.

(4)(A) One percent of the alternative ad valorem tax collected by the commissioner shall be paid into the general fund of the state treasury in order to defray costs of administration.

(B) Except for the amount provided in subparagraph (A) of this paragraph, the remaining proceeds of the alternative ad valorem tax shall be divided among each qualified tax jurisdiction of this state. Such qualified tax jurisdictions shall be limited to only a county, municipality, county school district, and independent school district which levies or causes to be levied for their benefit a property tax on real and tangible personal property. The commissioner shall determine the amount of ad valorem tax on apportionable vehicles identified under subsections (a), (b), and (c) of this Code section that was received by each qualified tax jurisdiction for the 2013 tax year. Such amount shall represent the benchmark amount for such qualified tax jurisdiction:

(i) For the 2015 tax year, each qualified tax jurisdiction shall receive an amount of alternative ad valorem tax revenue equal to such benchmark amount;

(ii) For the 2016 tax year, each qualified tax jurisdiction shall receive an amount of alternative ad valorem tax revenue equal to 80 percent of such benchmark amount;

(iii) For the 2017 tax year, each qualified tax jurisdiction shall receive an amount of alternative ad valorem tax revenue equal to 60 percent of such benchmark amount;

(iv) For the 2018 tax year, each qualified tax jurisdiction shall receive an amount of alternative ad valorem tax revenue equal to 40 percent of such benchmark amount;

(v) For the 2019 tax year, each qualified tax jurisdiction shall receive an amount of alternative ad valorem tax revenue equal to 20 percent of such benchmark amount; and

(vi) For all tax years beginning on or after January 1, 2020, each qualified tax jurisdiction shall receive the amount of alternative ad valorem tax revenue determined pursuant to subsection (m) of this Code section.

(C) In the event that the amount of ad valorem tax on apportionable vehicles collected in a tax year covered under this subsection is less than the benchmark amount, then the benchmark distribution of each qualified tax jurisdiction for such tax year shall be reduced proportionately to reflect the amount of such shortfall. In the event a qualified tax jurisdiction ceases to be a qualified tax jurisdiction, it shall not be entitled to receive a distribution of either the benchmark amount under this subparagraph or the remaining distribution amount under subparagraph (D) of this paragraph.

(D) When a qualified tax jurisdiction has received an amount equal to the prorated benchmark amount pursuant to subparagraph (B) of this paragraph for the applicable

tax year, any funds remaining with the commissioner shall be distributed in accordance with the formula contained in subparagraph (m)(2)(B) of this Code section.″

SECTION 2.

Article 5 of Chapter 12 of Title 44 of the Official Code of Georgia Annotated, relating to disposition of unclaimed property, is amended by revising Code Section 44-12-215, relating to publication of the "Georgia Unclaimed Property List," as follows:

″44-12-215.

(a) The commissioner shall ~~cause to be published~~ electronically publish notice of the reports filed under Code Section 44-12-214~~, once a year in a newspaper of general circulation~~ on the Department of Revenue's website.

(b) The published notice shall be entitled the 'Georgia Unclaimed Property List' and shall contain the names in alphabetical order and the internal identification number of persons listed in the report and entitled to notice within the county as provided in Code Section 44-12-214.

(c) The notice shall contain a statement that information concerning the amount or description of the property and the name of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the commissioner.

(d) The commissioner ~~is~~ shall not be required to publish in such notice any item with a value of less than $50.00 unless ~~he~~ the commissioner deems such publication to be in the public interest.″

SECTION 3.

Said article is further amended by revising Code Section 44-12-218, relating to disposition of funds received under article, as follows:

″44-12-218.

All funds received under this article, including the proceeds from the sale of abandoned property under Code Section 44-12-217, shall ~~forthwith~~ be deposited by the commissioner in the general fund; provided, however, that the commissioner may deduct moneys necessary to cover the direct administrative expenses required to identify, locate, secure, and transmit abandoned property prior to depositing such funds. Before making a deposit he or she shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and of the name and last known address of each insured person or annuitant and, with respect to each policy or contract listed in the report of an insurance corporation, its number, the name of the corporation, and the amount due.″

SECTION 4.

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

(b) Section 1 of this Act shall apply to all disbursements which occur after the effective date of this Act.

SECTION 5.

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

Senate Bill 100

By: Senators Harper of the 7th, Albers of the 56th, Williams of the 19th, Dugan of the 30th, Seay of the 34th and others

AS PASSED

A BILL TO BE ENTITLED

AN ACT

To amend Article 2 of Chapter 3 of Title 3 of the Official Code of Georgia Annotated, relating to prohibited acts regarding the regulation of alcoholic beverages generally, so as to repeal certain provisions for driver's license suspensions not directly related to traffic safety; 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 require certain notifications to delinquent obligors; to amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, so as to revise certain reporting requirements by the Department of Education to the Department of Driver Services; to amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to revise provisions regarding licensing for the operation of motor vehicles and the operation of motor vehicles; to provide for applicability with current federal regulations in the safe operations of motor carriers and commercial motor vehicles; to provide for definitions; to provide for registration and regulation of for-hire intrastate motor carriers and intrastate motor carriers; to provide for the dissemination of certain information by the Department of Driver Services; to provide for participation in an anatomical gift donation program when obtaining a personal identification card through the department; to provide for the designation of such participation on personal identification cards; to provide for the dissemination of identifying information for applicants making such election; to repeal certain provisions for driver's license suspensions not directly related to traffic safety; to provide for a waiver of the application fee for instruction permits in certain instances; to provide for legislative findings; to provide for the use of paper eye charts for the testing of noncommercial driver's vision; to provide for the issuance of limited driving permits to noncommercial drivers in certain instances; to change provisions relating to a plea of nolo contendere; to prohibit the offering of items of monetary value for the enrollment of students by any driver improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program licensed by the department; to allow photographs on drivers' licenses and identification cards to be in black and white; to provide for the conditions under which limited driving permits shall be issued; to allow photographs on drivers' licenses and identification cards to be in

black and white; to provide for related matters; to provide for effective dates and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

Article 2 of Chapter 3 of Title 3 of the Official Code of Georgia Annotated, relating to prohibited acts regarding the regulation of alcoholic beverages generally, is amended in Code Section 3-3-23.1, relating to procedure and penalties upon violation of Code Section 3-3-23, by revising paragraph (3) of subsection (b) as follows:

"~~(3) In addition to any other penalty provided for in paragraphs (1) and (2) of this subsection, the driver's license of any person convicted of attempting to purchase an alcoholic beverage in violation of paragraph (2) of subsection (a) of Code Section 3-3-23 upon the first conviction shall be suspended for six months and upon the second or subsequent conviction shall be suspended for one year.~~"

PART II

SECTION 2-1.

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 19-11-9.3, relating to suspension or denial of license for noncompliance with child support order, interagency agreements, and report to General Assembly, by adding a new subsection to read as follows:

"(p) The department shall inform delinquent obligors of resources available which may remedy such delinquent obligor's license suspension."

PART III

SECTION 3-1.

Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is amended by revising subsection (f) of Code Section 20-2-320, relating to the Education Information Steering Committee, identification of data to implement the Quality Basic Education Program, and the state-wide comprehensive educational information network, as follows:

"(f) Notwithstanding any other provision of law, the Department of Education is authorized to and shall obtain and provide to the Department of ~~Public Safety~~ Driver Services, in a form to be agreed upon between the Department of Education and the Department of ~~Public Safety~~ Driver Services, enrollment, ~~attendance~~ expulsion, and suspension information regarding minors 15 through 17 years of age reported pursuant to Code Sections 20-2-690 and 20-2-697, to be used solely for the purposes set forth in subsection (a.1) of Code Section 40-5-22."

SECTION 3-2.

Said chapter is further amended by revising paragraph (5) of subsection (b) and paragraph (6) of subsection (c) of Code Section 20-2-690, relating to educational entities and requirements by private schools and home study programs, as follows:

"(5) Within 30 days after the beginning of each school year, it shall be the duty of the administrator of each private school to provide to the school superintendent of each local public school district which has residents enrolled in the private school a list of the name, age, and residence of each resident so enrolled. At the end of each school month, it shall be the duty of the administrator of each private school to notify the school superintendent of each local public school district of the name, age, and residence of each student residing in the public school district who enrolls or terminates enrollment at the private school during the immediately preceding school month. Such records shall indicate when attendance has been suspended and the grounds for such suspension. Enrollment records and reports shall not be used for any purpose except providing necessary enrollment information, except with the permission of the parent or guardian of a child, pursuant to the subpoena of a court of competent jurisdiction, or for verification of ~~attendance~~ enrollment by the Department of Driver Services for the purposes set forth in subsection (a.1) of Code Section 40-5-22; and"

"(6) The parent or guardian shall have the authority to execute any document required by law, rule, regulation, or policy to evidence the enrollment of a child in a home study program, the student's full-time or part-time status, the student's grades, or any other required educational information. This shall include, but not be limited to, documents for purposes of verification of ~~attendance~~ enrollment by the Department of Driver Services, for the purposes set forth in subsection (a.1) of Code Section 40-5-22, documents required pursuant to Chapter 2 of Title 39 relating to employment of minors, and any documents required to apply for the receipt of state or federal public assistance;"

SECTION 3-3.

Said chapter is further amended by revising subsection (g) of Code Section 20-2-690.2, relating to the establishment of student attendance protocol committee, membership and protocol, summary of penalties for failure to comply, and reporting, as follows:

"(g) The committee shall write the summary of possible consequences and penalties for failing to comply with compulsory attendance under Code Section 20-2-690.1 for children and their parents, guardians, or other persons who have control or charge of children for distribution by schools in accordance with Code Section 20-2-690.1. The summary of possible consequences for children shall include possible dispositions for children in need of services and possible denial ~~or suspension~~ of a driver's license for a child in accordance with Code Section 40-5-22."

SECTION 3-4.

Said chapter is further amended by revising subsection (a) of Code Section 20-2-697, relating to cooperation of principals and teachers in public schools with visiting teachers and attendance officers, attendance reports and records kept by public schools, and letter indicating enrollment, as follows:

"(a) Visiting teachers and attendance officers shall receive the cooperation and assistance of all teachers and principals of public schools in the local school systems within which they are appointed to serve. It shall be the duty of the principals or local school site administrators and of the teachers of all public schools to report, in writing, to the visiting teacher or attendance officer of the local school system the names, ages, and residences of all students in attendance at their schools and classes within 30 days after the beginning of the school term or terms and to make such other reports of attendance in their schools or classes as may be required by rule or regulation of the State Board of Education. All public schools shall keep daily records of attendance, verified by the teachers certifying such records. Such reports shall be open to inspection by the visiting teacher, attendance officer, or duly authorized representative at any time during the school day. Any such attendance records and reports which identify students by name shall be used only for the purpose of providing necessary attendance information required by the state board or by law, except with the permission of the parent or guardian of a child, pursuant to the subpoena of a court of competent jurisdiction, or for verification of ~~attendance~~ <u>enrollment</u> by the Department of ~~Public Safety~~ <u>Driver Services</u> for the purposes set forth in subsection (a.1) of Code Section 40-5-22. Such attendance records shall also be maintained in a format which does not identify students by name, and in this format shall be a part of the data collected for the student record component of the state-wide comprehensive educational information system pursuant to subsection (b) of Code Section 20-2-320."

SECTION 3-5.

Said chapter is further amended by revising Code Section 20-2-701, relating to responsibility for reporting truants to juvenile or other courts, as follows:

"20-2-701.

~~(a)~~ Local school superintendents as applied to private schools, the Department of Education as applied to home study programs, or visiting teachers and attendance officers as applied to public schools, after written notice to the parent or guardian of a child, shall report to the juvenile or other court having jurisdiction under Chapter 11 of Title 15 any child who is absent from a public or private school or a home study program in violation of this subpart. If the judge of the court places such child in a home or in a public or private institution pursuant to Chapter 11 of Title 15, school shall be provided for such child. The Department of Education shall coordinate with local school superintendents with respect to attendance records and notification for students in home study programs.

~~(b) Local school superintendents or visiting teachers and attendance officers shall use their best efforts to notify any child 14 years of age or older who has only three absences remaining prior to violating the attendance requirements contained in subsection (a.1) of Code Section 40-5-22. Such notification shall be made via first-class mail.~~

~~(c) Local school superintendents or visiting teachers and attendance officers shall report to the State Board of Education, which shall, in turn, report to the Department of Driver Services any child 14 years of age or older who does not meet the attendance requirements contained in subsection (a.1) of Code Section 40-5-22. Such report shall include the child's name, current address, and social security number, if known.~~

~~(d) Subsections (b) and (c) of this Code section shall not be effective until full implementation of the state-wide education information system.~~"

PART IV

SECTION 4-1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising subparagraph (A) of paragraph (8.3) of Code Section 40-1-1, relating to definitions, as follows:

"(A) Has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight of ~~4,537~~ 4,536 kg (10,001 lbs.) or more;"

SECTION 4-2.

Said title is further amended by revising paragraph (3) of subsection (a) of Code Section 40-1-8, relating to definitions, safe operations of motor carriers and commercial motor

vehicles, civil penalties, operation of out-of-service vehicles, and criminal penalties, as follows:

"(3) 'Present regulations' means the regulations promulgated under 49 C.F.R. in force and effect on January 1, ~~2014~~ 2015."

SECTION 4-3.

Said title is further amended by revising Code Section 40-2-1, relating to definitions, as follows:

"40-2-1.

As used in this chapter, the term:

(1) 'Cancellation of vehicle registration' means the annulment or termination by formal action of the department of a person's vehicle registration because of an error or defect in the registration or because the person is no longer entitled to such registration. The cancellation of registration is without prejudice and application for a new registration may be made at any time after such cancellation.

(2) 'Commissioner' means the state revenue commissioner.

(3) 'Department' means the Department of Revenue.

(4) 'For-hire intrastate motor carrier' means an entity engaged in the transportation of goods or ten or more passengers for compensation wholly within the boundaries of this state.

(5) 'Intrastate motor carrier' means any self-propelled or towed motor vehicle operated by an entity that is used on a highway in intrastate commerce to transport passengers or property and:

(A) Has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight of 4,536 kg (10,001 lbs.) or more, whichever is greater;

(B) Is designed or used to transport more than ten passengers, including the driver, and is not used to transport passengers for compensation; or

(C) Is used to transport material found by the United States Secretary of Transportation to be hazardous pursuant to 49 U.S.C. Section 5103 and is transported in any quantity.

~~(4)~~(6) 'Motor carrier' means:

(A) Any entity subject to the terms of the Unified Carrier Registration Agreement pursuant to 49 U.S.C. Section 14504a whether engaged in interstate or intrastate commerce, or both; or

(B) Any entity defined by the commissioner or commissioner of public safety who operates or controls commercial motor vehicles as defined in 49 C.F.R. Section 390.5 or this chapter whether operated in interstate or intrastate commerce, or both.

~~(5)~~(7) 'Operating authority' means the registration required by 49 U.S.C. Section 13902, 49 C.F.R. Part 365, 49 C.F.R. Part 368, and 49 C.F.R. Section 392.9a.

~~(6)~~(8) 'Regulatory compliance inspection' means the examination of facilities, property, buildings, vehicles, drivers, employees, cargo, packages, records, books, or supporting documentation kept or required to be kept in the normal course of motor carrier business or enterprise operations.

~~(7)~~(9) 'Resident' means a person who has a permanent home or domicile in Georgia and to which, having been absent, he or she has the intention of returning. For the purposes of this chapter, there is a rebuttable presumption that any person who, except for infrequent, brief absences, has been present in the state for 30 or more days is a resident.

~~(8)~~(10) 'Revocation of vehicle registration' means the termination by formal action of the department of a vehicle registration, which registration shall not be subject to renewal or reinstatement, except that an application for a new registration may be presented and acted upon by the department after the expiration of the applicable period of time prescribed by law.

~~(9)~~(11) 'Suspension of vehicle registration' means the temporary withdrawal by formal action of the department of a vehicle registration, which temporary withdrawal shall be for a period specifically designated by the department."

SECTION 4-4.

Said title is further amended in Code Section 40-2-20, relating to registration and license requirements, by adding a new subparagraph to paragraph (1) of subsection (a) to read as follows:

"(C) The county tag agent may issue a temporary operating permit for any vehicle that fails to comply with applicable federal emission standards, provided that the owner of such vehicle has provided verification of the existence of minimum motor vehicle liability insurance coverage and paid all applicable taxes, penalties, insurance lapse fees, and fees other than the registration fee. Such temporary operating permit shall be valid for 30 days and shall not be renewable."

SECTION 4-5.

Said title is further amended by revising subsections (d), (e), and (f) of Code Section 40-2-140, relating to the administration of the Federal Unified Carrier Registration Act of 2005 by the Department of Public Safety, registration and fee requirements, evidence of continuing education, requirements for obtaining operating authority, collection, retention, and utilization of fees, regulatory compliance inspections, and penalties, as follows:

"(d)(1) Any intrastate motor carrier, leasing company leasing to a motor carrier, broker, or freight forwarder that engages in intrastate commerce and operates a motor vehicle on or over any public highway of this state shall register with the commissioner and pay a fee determined by the commissioner.

(2) No for-hire intrastate motor carrier shall be issued a registration unless there is filed with the commissioner ~~or the Federal Motor Carrier Safety Administration or any successor agency~~ a certificate of insurance for such applicant or holder, on forms prescribed by the commissioner, evidencing a policy of indemnity insurance by an insurance company licensed to do business in this state. Such policy shall provide for the protection of passengers in passenger vehicles and the protection of the public against the negligence of such for-hire intrastate motor carrier, and its servants or agents, when it is determined to be the proximate cause of any injury. The commissioner shall determine and fix the amounts of such indemnity insurance and shall prescribe the provisions and limitations thereof. The insurer shall file such certificate. Failure to file any form required by the commissioner shall not diminish the rights of any person to pursue an action directly against a for-hire intrastate motor carrier's insurer. The insurer may file its certificate of insurance electronically with the commissioner.

(3) The commissioner shall have the power to permit self-insurance in lieu of a policy of indemnity insurance whenever in his or her opinion the financial ability of the motor carrier so warrants.

(4) Any person having a cause of action, whether arising in tort or contract, under this Code section may join in the same cause of action the motor carrier and its insurance carrier.

(e) Before any intrastate motor carrier engaged in exempt passenger intrastate commerce shall operate any motor vehicle on or over any public highway of this state, the intrastate motor carrier shall register with the commissioner and pay a fee determined by the commissioner.

(f) Prior to the issuance of the initial registration to any intrastate motor carrier ~~Before any motor carrier shall be registered under the federal Unified Carrier Registration Act of 2005~~ by the Department of Public Safety pursuant to subsection (d) or (e) of this Code section, that intrastate motor carrier shall furnish evidence to the Department of Public Safety that the intrastate motor carrier, through an authorized representative, has completed, within the preceding 12 months, an educational seminar on motor carrier operations and safety regulations that has been certified by the commissioner."

SECTION 4-6.

Said title is further amended in Code Section 40-5-2, relating to information which may be disseminated by the Department of Driver Services, by revising paragraph (5) of subsection (f) as follows:

"(5) The information required to be made available to organ procurement organizations pursuant to subsection (d) of Code Section 40-5-25 and subsection (e) of Code Section 40-5-100 and for the purposes set forth in such Code ~~section~~ sections;"

SECTION 4-7.

Said title is further amended by revising Code Section 40-5-6, relating to forms for making anatomical gifts, as follows:

"40-5-6.

(a) Whenever any person applies for or requests the issuance, reissuance, or renewal of any class of driver's license or personal identification card, the department shall furnish ~~that~~ such person with a form, sufficient under Article 6 of Chapter 5 of Title 44, the 'Georgia Revised Uniform Anatomical Gift Act,' for the gift of all or part of the donor's body conditioned upon the donor's death. If any such person, legally authorized to execute such a gift as provided for pursuant to Code Section 44-5-142, desires to execute a gift, the department shall provide ~~that~~ such person with appropriate assistance and the presence of the legally required number of witnesses.

(b) A notation shall be affixed to or made a part of every driver's license and personal identification card issued in this state indicating whether or not the licensee or cardholder has executed, under Article 6 of Chapter 5 of Title 44, the 'Georgia Revised Uniform Anatomical Gift Act,' a gift, by will or otherwise, of all or part of his or her body conditioned upon the donor's death."

SECTION 4-8.

Said title is further amended in Code Section 40-5-22, relating to persons not to be licensed and school attendance requirements, by revising subsections (a.1) and (c) and by adding a new subsection to read as follows:

"(a.1)(1) The department shall not issue an instruction permit or driver's license to a person who is younger than 18 years of age unless at the time such minor submits an application for an instruction permit or driver's license the applicant presents acceptable proof that he or she has received a high school diploma, a general educational development (GED) diploma, a special diploma, or a certificate of high school completion or has terminated his or her secondary education and is enrolled in a

postsecondary school, is pursuing a general educational development (GED) diploma, or the records of the department indicate that said applicant:

(A) Is enrolled in and not under expulsion from a public or private school ~~and has satisfied relevant attendance requirements as set forth in paragraph (2) of this subsection for a period of one academic year prior to application for an instruction permit or driver's license~~; or

(B) Is enrolled in a home education program that satisfies the reporting requirements of all state laws governing such program.

The department shall notify such minor of his or her ineligibility for an instruction permit or driver's license at the time of such application.

~~(2) The department shall forthwith notify by certified mail or statutory overnight delivery, return receipt requested, any minor issued an instruction permit or driver's license in accordance with this subsection other than a minor who has terminated his or her secondary education and is enrolled in a postsecondary school or who is pursuing a general educational development (GED) diploma that such minor's instruction permit or driver's license is suspended subject to review as provided for in this subsection if the department receives notice that indicates that such minor:~~

~~(A) Has dropped out of school without graduating and has remained out of school for ten consecutive school days;~~

~~(B) Has ten or more school days of unexcused absences in the current academic year or ten or more school days of unexcused absences in the previous academic year; or~~

~~(C) Has been found in violation by a hearing officer, panel, or tribunal of one of the following offenses, has received a change in placement for committing one of the following offenses, or has waived his or her right to a hearing and pleaded guilty to one of the following offenses:~~

~~(i) Threatening, striking, or causing bodily harm to a teacher or other school personnel;~~

~~(ii) Possession or sale of drugs or alcohol on school property or at a school sponsored event;~~

~~(iii) Possession or use of a firearm in violation of Code Section 16-11-127.1 or possession or use of a dangerous weapon as defined in Code Section 16-11-121 but shall not include any part of an exhibit brought to school in connection with a school project;~~

~~(iv) Any sexual offense prohibited under Chapter 6 of Title 16; or~~

~~(v) Causing substantial physical or visible bodily harm to or seriously disfiguring another person, including another student.~~

~~Notice given by certified mail or statutory overnight delivery with return receipt requested mailed to the person's last known address shall be prima-facie evidence that such person received the required notice. Such notice shall include instructions to the minor to return immediately the instruction permit or driver's license to the department and information summarizing the minor's right to request an exemption from the provisions of this subsection. The minor so notified may request in writing a hearing within ten business days from the date of receipt of notice. Within 30 days after receiving a written request for a hearing, the department shall hold a hearing as provided for in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' After such hearing, the department shall sustain its order of suspension or rescind such order. The department shall be authorized to grant an exemption from the provisions of this subsection to a minor, upon such minor's petition, if there is clear and convincing evidence that the enforcement of the provisions of this subsection upon such minor would create an undue hardship upon the minor or the minor's family or if there is clear and convincing evidence that the enforcement of the provisions of this subsection would act as a detriment to the health or welfare of the minor. Appeal from such hearing shall be in accordance with said chapter. If no hearing is requested within the ten business days specified above, the right to a hearing shall have been waived and the instruction permit or driver's license of the minor shall remain suspended. The suspension provided for in this paragraph shall be for a period of one year or shall end upon the date of such minor's eighteenth birthday or, if the suspension was imposed pursuant to subparagraph (A) of this paragraph, upon receipt of satisfactory proof that the minor is pursuing or has received a general educational development (GED) diploma, a high school diploma, a special diploma, a certificate of high school completion, or has terminated his or her secondary education and is enrolled in a postsecondary school, whichever comes first.~~

~~(3)~~(2) The State Board of Education and the commissioner of driver services are authorized to promulgate rules and regulations to implement the provisions of this subsection.

~~(4)~~(3) The Technical College System of Georgia shall be responsible for compliance and noncompliance data for students pursuing a general educational development (GED) diploma.″

″(c) Except as provided in subsection (d) of this Code section, the ~~The~~ department shall not issue any driver's license to nor renew the driver's license of any person:

(1) Whose license has been suspended during such suspension, or whose license has been revoked, except as otherwise provided in this chapter;

(2) Whose license is currently under suspension or revocation in any other jurisdiction upon grounds which would authorize the suspension or revocation of a license under this chapter;

(3) Who is a habitual user of alcohol or any drug to a degree rendering him or her incapable of safely driving a motor vehicle;

(4) Who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law;

(5) Who is required by this chapter to take an examination, unless such person shall have successfully passed such examination;

(6) Who the commissioner has good cause to believe would not, by reason of physical or mental disability, be able to operate a motor vehicle with safety upon the highway; or

(7) Whose license issued by any other jurisdiction is suspended or revoked by such other jurisdiction during the period such license is suspended or revoked by such other jurisdiction.

(d) The department is authorized to issue a limited driving permit to an applicant whose license is currently under suspension or revocation in any other jurisdiction upon grounds which would authorize the suspension or revocation of a license under this chapter, provided that the applicant is otherwise eligible for such limited driving permit in accordance with paragraph (1) of subsection (a) of Code Section 40-5-64.″

SECTION 4-9.

Said title is further amended in Code Section 40-5-25, relating to application fees for drivers' licenses, by revising subsection (b) as follows:

″(b)(1) Each person applying for a Class P commercial or noncommercial instruction permit for a Class A, B, C, E, F, or M driver's license shall pay the applicable license fee prior to attempting the knowledge test for the instruction permit sought when the knowledge test is to be administered by the department. If said person fails to achieve a passing score on the knowledge test, the license fee paid shall be considered a testing fee and retained by the department. Any person failing to achieve a passing score on the knowledge test for an instructional permit shall pay the applicable license fee on each subsequent attempt until successful, at which time said fee shall be his or her license fee.

(2) The department shall waive the license fee for each person applying for a Class P noncommercial instruction permit for a Class C driver's license when the noncommercial knowledge test is to be administered by a licensed driver training school or public or private high school authorized to administer such tests as provided for in subsection (d) of Code Section 40-5-27.

(3) Each person applying for a Class A, B, or C commercial driver's license shall pay the applicable license fee at the time that he or she schedules his or her appointment for said skills test. If said person fails to appear for his or her scheduled skills test appointment or fails to achieve a passing score on the skills test, the license fee paid shall be considered a testing fee and retained by the department. The person shall pay the applicable license fee on each subsequent attempt until successful, at which time said fee shall be his or her license fee. All fees retained by the department pursuant to this Code section shall be remitted to the general fund."

SECTION 4-10.

Said title is further amended in Code Section 40-5-25, relating to indication of participation in voluntary programs on driver's license application, by revising subsection (d) and paragraph (1) of subsection (e) as follows:

"(d)(1) The General Assembly finds that it is in the best interest of ~~the~~ this state to encourage improved public education and awareness regarding anatomical gifts of human organs and tissues and to address the ever increasing need for donations of anatomical gifts for the benefit of the citizens of Georgia.

(2) The department shall make available to ~~those federally designated organ~~ procurement organizations or secure data centers maintained and managed at the direction of a procurement organization information provided for in Article 6 of Chapter 5 of Title 44, the 'Georgia Revised Uniform Anatomical Gift Act,' including the name, license number, date of birth, gender, and most recent address of any person eligible pursuant to Code Section 44-5-142 who obtains an organ donor driver's license; provided, however, that the gender information shall be made available only to a procurement organization or secure data center if such organization or center has sufficient funds to cover the associated costs of providing such information. Information so obtained by such organizations and centers shall be used for ~~the purpose of establishing~~ a state-wide organ donor registry accessible to organ tissue and eye banks authorized to function as such in this state and shall not be further disseminated.

(e)(1) The General Assembly finds that it is in the best ~~interests~~ interest of ~~the~~ this state to encourage improved public education and awareness regarding blindness and to address the need for blindness prevention screenings, ~~and~~ treatments, and rehabilitation for the benefit of the citizens of Georgia."

SECTION 4-11.

Said title is further amended in Code Section 40-5-27, relating to examination of driver's license applicants, by revising paragraph (1) of subsection (c) as follows:

"(c)(1) Except as provided in paragraphs (2), (3), and (4) of this subsection, no noncommercial driver's license shall be issued to any person who does not have a visual acuity of 20/60, corrected or uncorrected, in at least one eye or better and a horizontal field of vision with both eyes open of at least 140 degrees or, in the event that one eye only has usable vision, horizontal field of vision must be at least 70 degrees temporally and 50 degrees nasally."

SECTION 4-12.

Said title is further amended in Code Section 40-5-28, relating to contents of drivers' licenses, by revising subsection (a) as follows:

"(a) Except as provided in subsection (c) of this Code section, the department shall, upon payment of the required fee, issue to every applicant qualifying therefor a driver's license indicating the type or general class of vehicles the licensee may drive, which license shall be upon a form prescribed by the department and which shall bear thereon a distinguishing number assigned to the licensee, a ~~color~~ photograph of the licensee, the licensee's full legal name, either a facsimile of the signature of the licensee or a space upon which the licensee shall write his or her usual signature with a pen and ink immediately upon receipt of the license, and such other information or identification as is required by the department. No license shall be valid until it has been so signed by the licensee. The department shall not require applicants to submit or otherwise obtain from applicants any fingerprints or any other biological characteristic or information which uniquely identifies an individual, including without limitation deoxyribonucleic acid (DNA) and retinal scan identification characteristics but not including a photograph, by any means upon application."

SECTION 4-13.

Said title is further amended by revising subsection (a) of Code Section 40-5-54, relating to mandatory suspension of license and notice of suspension, as follows:

"(a) The department shall forthwith suspend, as provided in Code Section 40-5-63, the license of any driver upon receiving a record of such driver's conviction of the following offenses, whether charged as a violation of state law or of a local ordinance adopted pursuant to Article 14 of Chapter 6 of this title:

(1) Homicide by vehicle, as defined by Code Section 40-6-393;

(2) Any felony in the commission of which a motor vehicle is used;

(3) Hit and run or leaving the scene of an accident in violation of Code Section 40-6-270;

(4) Racing on highways and streets;

(5) Using a motor vehicle in fleeing or attempting to elude an officer; or

~~(6) Fraudulent or fictitious use of or application for a license as provided in Code Section 40-5-120 or 40-5-125;~~

~~(7)~~(6) Operating a motor vehicle with a revoked, canceled, or suspended registration in violation of Code Section 40-6-15~~; or~~

~~(8) Any felony violation of Article 1 of Chapter 9 of Title 16 if such offense related to an identification document as defined in Code Section 16-9-4~~.″

SECTION 4-14.

Said title is further amended by repealing in its entirety Code Section 40-5-57.2, relating to suspension based on violation of Code Section 40-6-255, and designating said Code section as reserved.

SECTION 4-15.

Said title is further amended by revising Code Section 40-5-57.1, relating to suspension and reinstatement of drivers' licenses for persons under a certain age, as follows:

″(a) Notwithstanding any other provision of this chapter, the driver's license of any person under 21 years of age convicted of hit and run or leaving the scene of an accident in violation of Code Section 40-6-270, racing on highways or streets, using a motor vehicle in fleeing or attempting to elude an officer, reckless driving, any offense for which four or more points are assessable under subsection (c) of Code Section 40-5-57, ~~purchasing an alcoholic beverage in violation of paragraph (2) of subsection (a) of Code Section 3-3-23, or violation of paragraph (3) or (5) of subsection (a) of Code Section 3-3-23,~~ or a violation of Code Section 40-6-391 shall be suspended by ~~the department~~ operation of law as provided by this Code section~~; and the~~. A plea of nolo contendere shall be considered a conviction for the purposes of this subsection. The court in which such conviction is had shall require the surrender to it of the driver's license then held by the person so convicted, and the court shall thereupon forward such license and a copy of the disposition to the department within ten days after the conviction. The department shall send notice of any suspension imposed pursuant to this subsection via certified mail to the address reflected on its records as the person's mailing address.

(b) The driver's license of any person under 18 years of age who has accumulated a violation point count of four or more points under Code Section 40-5-57 in any consecutive 12 month period shall be suspended by the department as provided by subsection (c) of this Code section. A plea of nolo contendere shall be considered a conviction for purposes of this subsection. Notice of suspension shall be given by certified mail or statutory overnight delivery, return receipt requested~~;~~, to the address reflected in the department's records as the driver's mailing address or, in lieu thereof, notice may be given by personal service

upon such person. ~~Such license shall be surrendered within ten days of notification of such suspension.~~ Notice given by certified mail or statutory overnight delivery, return receipt requested, mailed to the person's last known address shall be prima-facie evidence that such person received the required notice.

~~(b)~~(c) A person whose driver's license has been suspended under subsection (a) or (b) of this Code section shall:

(1) Subject to the requirements of subsection ~~(c)~~ (d) of this Code section and except as otherwise provided by paragraph (2) of this subsection:

(A) Upon a first such suspension, be eligible to apply for license reinstatement and, subject to payment of required fees, have his or her driver's license reinstated after six months; and

(B) Upon a second or subsequent such suspension, be eligible to apply for license reinstatement and, subject to payment of required fees, have his or her driver's license reinstated after 12 months; or

(2)(A) Upon the first conviction of a violation of Code Section 40-6-391, with no arrest and conviction of and no plea of nolo contendere accepted to such offense within the previous five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, have his or her license suspended for a period of six months unless the driver's blood alcohol concentration at the time of the offense was 0.08 grams or more or the person has previously been subject to a suspension pursuant to paragraph (1) of this subsection, in which case the period of suspension shall be for 12 months.

(B) Upon the second conviction of a violation of Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, have his or her license suspended for a period of 18 months.

(C) Upon the third conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, be considered a habitual violator, and such person's license shall be revoked as provided for in Code Section 40-5-58.

~~(b.1)~~(c.1) In any case where a person's driver's license was administratively suspended as a result of a violation of Code Section 40-6-391 for which the person's driver's license has been suspended pursuant to subsection (c) of this Code section, the administrative license suspension period and the license suspension period provided by this Code section may run concurrently, and any completed portion of such administrative license suspension period shall apply toward completion of the license suspension period provided by this Code section.

~~(c)~~(d)(1) Any driver's license suspended under subsection (a) or (b) of this Code section for commission of any offense other than violation of Code Section 40-6-391 shall not become valid and shall remain suspended until such person submits proof of completion of a defensive driving course approved by the commissioner pursuant to Code Section 40-5-83 and pays the applicable reinstatement fee. Any driver's license suspended under subsection (a) of this Code section for commission of a violation of Code Section 40-6-391 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays the applicable reinstatement fee.

(2) The reinstatement fee for a first such suspension shall be $210.00 or $200.00 if paid by mail. The reinstatement fee for a second or subsequent such suspension shall be $310.00 or $300.00 if paid by mail.

~~(d)~~(e) A suspension provided for in subsection (a) of this Code section shall be imposed based on the person's age on the date of the conviction giving rise to the suspension."

SECTION 4-16.

Said title is further amended by repealing in their entirety subsections (e) and (f) of Code Section 40-5-63, relating to periods of suspension and conditions of return of license.

SECTION 4-17.

Said title is further amended in Code Section 40-5-64, relating to limited driving permits for certain offenders, by revising subsections (a), (c), and (c.1) as follows:

"(a) **To whom issued.**

(1) Notwithstanding any contrary provision of Code Section 40-5-57 or 40-5-63 or any other Code section of this chapter, any person who has not been previously convicted or adjudicated delinquent for a violation of Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted, may apply for a limited driving permit when and only when that person's driver's license has been suspended in accordance with ~~paragraph (2) of subsection (a.1) of Code Section 40-5-22,~~ subsection (d) of Code Section 40-5-57, paragraph (1) of subsection (a) of Code Section 40-5-63, paragraph (1) of subsection (a) of Code Section 40-5-67.2, or subsection (a) of Code Section 40-5-57.1, when the person is 18 years of age or older and his or her license was suspended for exceeding the speed limit by 24 miles per hour or more but less than 34 miles per hour, and the sentencing judge, in his or her discretion, decides it is reasonable to issue a limited driving permit."

"(c) **Standards for approval.** The department shall issue a limited driving permit if the application indicates that refusal to issue such permit would cause extreme hardship to the applicant. Except as otherwise provided by subsection (c.1) of this Code section, for the purposes of this Code section, 'extreme hardship' means that the applicant cannot reasonably obtain other transportation, and therefore the applicant would be prohibited from:

(1) Going to his or her place of employment <u>or performing the normal duties of his or her occupation</u>;

(2) Receiving scheduled medical care or obtaining prescription drugs;

(3) Attending a college or school at which he or she is regularly enrolled as a student;

(4) Attending regularly scheduled sessions or meetings of support organizations for persons who have addiction or abuse problems related to alcohol or other drugs, which organizations are recognized by the commissioner;

(5) Attending under court order any driver education or improvement school or alcohol or drug program or course approved by the court which entered the judgment of conviction resulting in suspension of his or her driver's license or by the commissioner;

(6) Attending court, reporting to a probation office or officer, or performing community service; or

(7) Transporting an immediate family member who does not hold a valid driver's license for work, medical care, or prescriptions or to school.

(c.1) **Exception to standards for approval.**

(1) The provisions of paragraphs (2), (3), (4), and (5) of subsection (c) of this Code section shall not apply and shall not be considered for purposes of granting a limited driving permit or imposing conditions thereon under this Code section in the case of a driver's license suspension under paragraph (2) of subsection (a.1) of Code Section 40-5-22.

(2) An ignition interlock device limited driving permit shall be restricted to allow the holder thereof to drive solely for the following purposes:

(A) Going to his or her place of employment <u>or performing the normal duties of his or her occupation</u>;

(B) Attending a college or school at which he or she is regularly enrolled as a student;

(C) Attending regularly scheduled sessions or meetings of treatment support organizations for persons who have addiction or abuse problems related to alcohol or other drugs, which organizations are recognized by the commissioner; and

(D) Going for monthly monitoring visits with the permit holder's ignition interlock device service provider."

SECTION 4-18.

Said title is further amended by revising Code Section 40-5-75, relating to suspension of licenses by operation of law, as follows:

"40-5-75.

(a) The driver's license of any person convicted of driving or being in actual physical control of any moving vehicle while under the influence of ~~Except as provided in Code Section 40-5-76, the driver's license of any person convicted of any violation of Article 2 of Chapter 13 of Title 16, the 'Georgia Controlled Substances Act,' including, but not limited to, possession, distribution, manufacture, cultivation, sale, transfer of, trafficking in, the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, transfer or traffic in~~ a controlled substance or marijuana~~,~~ in violation of paragraph (2), (4), or (6) of subsection (a) of Code Section 40-6-391 or the law of any other jurisdiction, shall by operation of law be suspended, and such suspension shall be subject to the following terms and conditions:

(1) Upon the first conviction of any such offense, with no arrest and conviction of and no plea of nolo contendere accepted to such offense within the previous five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for not less than 180 days. At the end of 180 days, the person may apply to the department for reinstatement of his or her driver's license. Such license shall be reinstated only if the person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays to the department a restoration fee of $210.00 or $200.00 when such reinstatement is processed by mail~~. For purposes of this paragraph, a plea of nolo contendere by a person to a charge of any drug related offense listed in this subsection shall, except as provided in subsection (c) of this Code section, constitute a conviction~~;

(2) Upon the second conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for three years, provided that after one year from the date of the conviction, the person may apply to the department for reinstatement of his or her driver's license by submitting proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and paying to the department a restoration fee of $310.00 or $300.00 when such reinstatement is processed by mail~~. For purposes of this paragraph, a plea of nolo contendere and all previous pleas of nolo contendere within such five-year period of time shall constitute a conviction~~; and

(3) Upon the third or subsequent conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the

date of the current arrest for which a conviction is obtained, such person's license shall be suspended for a period of five years. At the end of two years, the person may apply to the department for a three-year driving permit upon compliance with the following conditions:

(A) Such person has not been convicted or pleaded nolo contendere to any drug related offense, including driving under the influence, for a period of two years immediately preceding the application for such permit;

(B) Such person submits proof of completion of a licensed drug treatment program. Such proof shall be submitted within two years of the license suspension and prior to the issuance of the permit. Such licensed drug treatment program shall be paid for by the offender. The offender shall pay a permit fee of $25.00 to the department;

(C) Such person submits proof of financial responsibility as provided in Chapter 9 of this title; and

(D) Refusal to issue such permit would cause extreme hardship to the applicant. For the purposes of this subparagraph, the term 'extreme hardship' means that the applicant cannot reasonably obtain other transportation, and, therefore, the applicant would be prohibited from:

(i) Going to his or her place of employment or performing the normal duties of his or her occupation;

(ii) Receiving scheduled medical care or obtaining prescription drugs;

(iii) Attending a college or school at which he or she is regularly enrolled as a student; or

(iv) Attending regularly scheduled sessions or meetings of support organizations for persons who have addiction or abuse problems related to alcohol or other drugs, which organizations are recognized by the commissioner.

<u>Any permittee who is convicted of violating any state law or local ordinance relating to the movement of vehicles or any permittee who is convicted of violating the conditions endorsed on his or her permit shall have his or her permit revoked by the department. Any court in which such conviction is had shall require the permittee to surrender the permit to the court, and the court shall forward it to the department within ten days after the conviction, with a copy of the conviction. Any person whose limited driving permit has been revoked shall not be eligible to apply for a driver's license until six months from the date such permit was surrendered to the department.</u> At the end of five years from the date on which the license was suspended, the person may apply to the department for reinstatement of his or her driver's license by submitting proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and paying to the department a restoration fee of $410.00 or $400.00 when such reinstatement is processed by mail. ~~For purposes~~

~~of this paragraph, a plea of nolo contendere and all previous pleas of nolo contendere within such five-year period of time shall constitute a conviction.~~

~~(a.1) Any permittee who is convicted of violating any state law or local ordinance relating to the movement of vehicles or any permittee who is convicted of violating the conditions endorsed on his or her permit shall have his or her permit revoked by the department. Any court in which such conviction is had shall require the permittee to surrender the permit to the court, and the court shall forward it to the department within ten days after the conviction, with a copy of the conviction. Any person whose limited driving permit has been revoked shall not be eligible to apply for a driver's license until six months from the date such permit was surrendered to the department.~~

(b) Except as provided in Code Section 40-5-76, whenever a person is convicted of ~~possession, distribution, manufacture, cultivation, sale, transfer of, the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer a controlled substance or marijuana, or~~ driving or being in actual physical control of any moving vehicle while under the influence of ~~such substance~~ a controlled substance or marijuana in violation of ~~subsection (b) of Code Section 16-13-2, subsection (a), (b), or (j) of Code Section 16-13-30, or Code Section 16-13-33;~~ paragraph (2), (4), or (6) of subsection (a) of Code Section 40-6-391~~;~~ or the law of any other jurisdiction, the court in which such conviction is had shall require the surrender to it of any driver's license then held by the person so convicted, and the court shall thereupon forward such license and a copy of its order to the department within ten days after the conviction. The periods of suspension provided for in this Code section shall begin on the date of surrender of the driver's license or on the date that the department processes the conviction or citation, whichever shall first occur.

~~(c)(1) The decision to accept a plea of nolo contendere to a misdemeanor charge of unlawful possession of less than one ounce of marijuana shall be at the sole discretion of the judge. If a plea of nolo contendere is accepted as provided in this subsection, the judge shall, as a part of the disposition of the case, order the defendant to attend and complete a DUI Alcohol or Drug Use Risk Reduction Program. The order shall stipulate that the defendant shall complete such program within 120 days and that the defendant shall submit evidence of such completion to the department. The judge shall also notify the defendant that, if he or she fails to complete such program by the date specified in the court's order, his or her driver's license shall be suspended, by operation of law, as provided in this Code section. The record of the disposition of the case shall be forwarded to the department.~~

~~(2) If a plea of nolo contendere is accepted and the defendant's driver's license has not been suspended under any other provision of this title and if the defendant has not been~~

~~convicted of or has not had a plea of nolo contendere accepted to a charge of violating this Code section within the previous five years, the court shall, subject to paragraph (1) of this subsection, return the driver's license to the person; otherwise, such driver's license shall be forwarded to the department.~~

~~(d)~~(c) Application for reinstatement of a driver's license under paragraph (1) or (2) of subsection (a) of this Code section shall be made on such forms as the commissioner may prescribe and shall be accompanied by proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and a restoration fee of $210.00 or $200.00 when such reinstatement is processed by mail. Application for a three-year driving permit under paragraph (3) of subsection (a) of this Code section shall be made on such form as the commissioner may prescribe and shall be accompanied by proof of completion of an approved residential drug treatment program and a fee of $25.00 for such permit.

~~(e)~~(d) Notwithstanding any other provision of this Code section or any other provision of this chapter, any person whose license is suspended pursuant to this Code section shall not be eligible for early reinstatement of his or her license and shall not be eligible for a limited driving permit, but such person's license shall be reinstated only as provided in this Code section or Code Section 40-5-76.

~~(f)~~(e) Except as provided in subsection (a) of this Code section, it shall be unlawful for any person to operate any motor vehicle in this state after such person's license has been suspended pursuant to this Code section if such person has not thereafter obtained a valid license. Any person who is convicted of operating a motor vehicle before the department has reinstated such person's license or issued such person a three-year driving permit shall be punished by a fine of not less than $750.00 nor more than $5,000.00 or by imprisonment in the penitentiary for not more than 12 months, or both.

~~(g) Notwithstanding the provisions of Code Section 15-11-606 and except as provided in subsection (c) of this Code section, an adjudication of a minor child as a delinquent child for any offense listed in subsection (a) of this Code section shall be deemed a conviction for purposes of this Code section.~~

~~(h)~~(f) Licensed ~~Notwithstanding the provisions of subsection (a) of this Code section, licensed~~ drivers who are 16 years of age who are adjudicated in a juvenile court pursuant to this Code section may, at their option, complete a DUI Alcohol or Drug Use Risk Reduction Program or an assessment and intervention program approved by the juvenile court.

~~(i)~~(g) 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 in the State of

Georgia or holds a driver's license issued by another state, 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 4-19.

Said title is further amended in Code Section 40-5-81, relating to the driver improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program option and the certification and approval of courses, by adding a new subsection to read as follows:

"(d) It shall be unlawful for the owner, agent, servant, or employee of any driver improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program licensed by the department to directly or indirectly offer, for purposes of the enrollment or solicitation of any student or prospective student, any item of monetary value, including but not limited to United States legal tender, food, gasoline cards, debit gift cards, or merchant gift cards to any:

(1) Student or agent or legal representative of a student;

(2) Employee or agent of a private company which has contracted with a county, municipality, or consolidated government to provide probation services pursuant to Article 6 of Chapter 8 of Title 42;

(3) Law enforcement officer; or

(4) Officer or employee of the judicial branch or a court.

A violation of this subsection shall be a misdemeanor."

SECTION 4-20.

Said title is further amended in Code Section 40-5-100, relating to the issuance of personal identification cards, by revising subsection (a) and by adding new subsections to read as follows:

"(a) The department shall issue personal identification cards to all residents as defined in Code Section 40-5-1 who make application to the department in accordance with rules and regulations prescribed by the commissioner. Cards issued to applicants under 21 years of age shall contain the distinctive characteristics of drivers' licenses issued pursuant to Code Section 40-5-26. The identification card shall be similar in form but distinguishable in color from motor vehicle drivers' licenses and may contain a recent ~~color~~ photograph of the applicant and include the following information:

(1) Full legal name;

(2) Address of residence;

(3) Birth date;

(4) Date identification card was issued;

(5) Sex;

(6) Height;

(7) Weight;

(8) Eye color;

(9) Signature of person identified or facsimile thereof; ~~and~~

(10) Designation of participation in an anatomical gift donation program when such person is eligible to make such gift pursuant to Code Section 44-5-142; and

(11) Such other information or identification as required by the department; provided, however, that the department shall not require an applicant to submit or otherwise obtain from an applicant any fingerprints or any other biological characteristic or information which uniquely identifies an individual, including without limitation deoxyribonucleic acid (DNA) and retinal scan identification characteristics but not including a photograph, by any means upon application."

"(e)(1) The General Assembly finds that it is in the best interest of this state to encourage improved public education and awareness regarding anatomical gifts of human organs and tissues and to address the ever increasing need for donations of anatomical gifts for the benefit of the citizens of Georgia.

(2) The department shall make available to procurement organizations or secure data centers maintained and managed at the direction of a procurement organization information provided for in Article 6 of Chapter 5 of Title 44, the 'Georgia Revised Uniform Anatomical Gift Act,' including the name, personal identification card number, date of birth, gender, and most recent address of any person who obtains an organ donor identification card; provided, however, that the gender information shall be made available only to a procurement organization or secure data center if such organization or center has sufficient funds to cover the associated costs of providing such information. Information so obtained by such organizations and centers shall be used for a state-wide organ donor registry accessible to organ tissue and eye banks authorized to function as such in this state and shall not be further disseminated.

(f)(1) The General Assembly finds that it is in the best interest of this state to encourage improved public education and awareness regarding blindness and to address the need for blindness prevention screenings, treatments, and rehabilitation for the benefit of the citizens of Georgia.

(2) Each application form for issuance, reissuance, or renewal of a personal identification card under this Code section shall include language permitting the applicant to make a voluntary contribution of $1.00 to be used for purposes of preventing blindness and preserving the sight of residents of this state. Any such voluntary contribution shall be

made at the discretion of the applicant at the time of application in addition to payment of the personal identification card fee prescribed by the commissioner.

(3) Voluntary contributions made pursuant to this subsection shall be transmitted to the Department of Public Health for use thereby in providing the blindness education, screening, and treatment program provided by Code Section 31-1-23.″

SECTION 4-21.

Said title is further amended by revising paragraph (1) of subsection (b) of Code Section 40-5-121, relating to driving while license suspended or revoked, as follows:

″(b)(1) The department, upon receiving a record of the conviction of any person under this Code section upon a charge of driving a vehicle while the license of such person was suspended, disqualified, or revoked, including suspensions under subsection ~~(f)~~ (e) of Code Section 40-5-75, shall extend the period of suspension or disqualification by six months. Upon the expiration of six months from the date on which the suspension or disqualification is extended and payment of the applicable reinstatement fee, the department shall reinstate the license. The reinstatement fee for a first such conviction within a five-year period shall be $210.00 or $200.00 if paid by mail. The reinstatement fee for a second such conviction within a five-year period shall be $310.00 or $300.00 if paid by mail. The reinstatement fee for a third or subsequent such conviction within a five-year period shall be $410.00 or $400.00 if paid by mail.″

SECTION 4-22.

Said title is further amended in Code Section 40-5-150, relating to contents of commercial drivers' licenses, by revising subsection (a) as follows:

″(a) The commercial driver's license shall be marked 'Commercial Driver's License' or 'CDL' and shall be, to the maximum extent practicable, tamperproof, and shall include, but not be limited to, the following information:

(1) The full legal name and residential address of the person;

(2) The person's ~~color~~ photograph;

(3) A physical description of the person, including sex, height, weight, and eye color;

(4) Full date of birth;

(5) The license number or identifier assigned by the department;

(6) The person's signature;

(7) The class or type of commercial motor vehicle or vehicles which the person is authorized to drive, together with any endorsements or restrictions;

(8) The name of this state; and

(9) The dates between which the license is valid.″

SECTION 4-23.

Said title is further amended in Code Section 40-5-171, relating to contents of personal identification cards for persons with disabilities, by revising subsection (a) as follows:

"(a) The department shall issue personal identification cards to persons with disabilities who make application to the department in accordance with rules and regulations prescribed by the commissioner. The identification card for persons with disabilities shall contain a recent ~~color~~ photograph of the applicant and the following information:

(1) Full legal name;

(2) Address of residence;

(3) Birth date;

(4) Date identification card was issued;

(5) Date identification card expires;

(6) Sex;

(7) Height;

(8) Weight;

(9) Eye color;

(10) Signature of person identified or facsimile thereof; and

(11) Such other information as required by the department; provided, however, that the department shall not require an applicant to submit or otherwise obtain from an applicant any fingerprints or any other biological characteristic or information which uniquely identifies an individual, including without limitation deoxyribonucleic acid (DNA) and retinal scan identification characteristics but not including a photograph, by any means upon application."

SECTION 4-24.

Said title is further amended in Code Section 40-6-15, relating to knowingly driving a motor vehicle with a suspended, canceled, or revoked vehicle registration, by revising subsection (e) as follows:

"(e) ~~For all purposes under this Code section, a plea of nolo contendere shall be considered as a conviction.~~ <u>For purposes of pleading nolo contendere, only one nolo contendere plea shall be accepted to a charge of driving a motor vehicle with a suspended, canceled, or revoked vehicle registration within a five-year period of time as measured from the date of the previous arrest for which a conviction was obtained or plea of nolo contendere was accepted to the date of the current arrest. All other nolo contendere pleas within such period of time shall be considered convictions.</u>"

PART V

SECTION 5-1.

Code Section 42-8-112 of the Official Code of Georgia Annotated, relating to timing for issuance of ignition interlock device limited driving permits, is amended by revising paragraph (1) of subsection (a) as follows:

"(a)(1) In any case where the court grants a certificate of eligibility for an ignition interlock device limited driving permit or probationary license pursuant to Code Section 42-8-111 to a person whose driver's license is suspended pursuant to subparagraph ~~(b)~~(c)(2)(C) of Code Section 40-5-57.1 or paragraph (2) of subsection (a) of Code Section 40-5-63, the Department of Driver Services shall not issue an ignition interlock device limited driving permit until after the expiration of 120 days from the date of the conviction for which such certificate was granted."

PART VI

SECTION 6-1.

Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date.

SECTION 6-2.

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

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295 Ga. 385

S14A0187. HANSEN v. DEKALB COUNTY BOARD OF TAX ASSESSORS et al.

HUNSTEIN, Justice.

By means of an action seeking mandamus and other relief, James Hansen and 30 other DeKalb County residents (hereinafter, "Plaintiffs") sought to obtain certain information from the DeKalb County Board of Tax Assessors in connection with their 2012 property tax assessments. The trial court denied Plaintiffs' request for a mandamus nisi, prompting this appeal.[1] We find no error and affirm.

As alleged in the complaint, in January 2013, Hansen and the other taxpayers filed with the Board so-called Requests for Information, each seeking information regarding the appraisal and assessment of his or her property for the 2012 tax year. Specifically, the requests sought the identification of all

[1] Finding that the 30 additional residents were not properly named as parties to the mandamus action, the trial court deemed Hansen to be the sole plaintiff in the case. Accordingly, the appeal has been pursued by Hansen only. Hansen directed his appeal to the Court of Appeals, which properly transferred the case to this Court. See Ga. Const. of 1983, Art. VI, Sec. VI, Par. III (5); OCGA § 9-6-28 (a).

documents reviewed in making initial and revised assessments of each property, all properties used as "qualified comparable properties" in such assessments, all appraisers who made such assessments and their qualifications, and all factors used in determining the assessed values of the properties. The requests also sought a description of the "geographic area . . . within which comparable properties may be selected" and the identification of "all bank sales, other financial institution owned sales, or distressed sales" within such geographic area. In addition, the requests asked that the Board confirm "the fair market value assessment . . . that will be pursued" for tax year 2012 and identify the documents and other information used to determine such value.

The requests were ostensibly made pursuant to OCGA § 48-5-306 (d), which provides in pertinent part:

> The taxpayer may request, and the county board of tax assessors shall provide within ten business days, copies of such public records and information, including, but not limited to, all documents reviewed in making the assessment, the address and parcel identification number of all real property utilized as qualified comparable properties, and all factors considered in establishing the new assessment, at a uniform copying fee not to exceed 25¢ per page[.]

Id. at (d) (1). The Board responded to these requests with certain "sales ratio reports," which identify sales of real property within a given area. Finding the responses to be insufficiently specific, Plaintiffs requested further, more specific responses, to which the Board responded with more documents. According to Hansen, these additional documents did not provide the precise information Plaintiffs sought. Plaintiffs then sent a letter requesting a meeting with Calvin Hicks, the Board's Secretary and Chief Appraiser, to review the requests for information and the documents the Board had provided in response. Such meeting, the letter stated, was to be recorded, pursuant to OCGA § 48-5-311 (h).[2] Hicks declined this request.

Thereafter, Hansen filed his complaint, styled as a "Petition for Mandamus and/or For an Order and Judgment under OCGA § 50-18-71 et seq.[3]" In the petition, Hansen sought an order directing the Board (1) "to directly, fully, and truthfully respond to each item/request contained in each Request for Information" within five business days; and (2) "to meet with Plaintiffs . . . for

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[2] This provision authorizes taxpayers to record, at their own expense, "any interview with any officer or employee of the taxing authority relating to the valuation of the taxpayer's property."

[3] OCGA § 50-18-71 et seq. is the Georgia Open Records Act.

the purpose of discussing [the Board's] answers . . . and explaining to Plaintiff's [sic] [the] relevance, if any, [of such] documentation." Further, Hansen sought to have the requested meeting "recorded by Plaintiffs, as provided by OCGA § 48-5-311 (h)." Hansen also sought penalties under the Open Records Act and attorney fees.

After the petition was filed and served, the trial court denied the mandamus nisi, finding that Hansen's claims were not cognizable under the Open Records Act or in mandamus. We agree with the trial court's analysis.

1. The Open Records Act does not apply to information sought under OCGA § 48-5-306 (d). This conclusion is readily apparent from the introductory clause of OCGA § 48-5-306 (d), which states that the rights afforded thereunder are "[n]otwithstanding the provisions of Code Section 50-18-71." In enacting OCGA § 48-5-306 (d), the legislature clearly intended that county tax assessment records be handled differently than other forms of public records and thus carved them out of the Open Records Act for specific treatment. See Couch v. Red Roof Inns, Inc., 291 Ga. 359, 364 (1) (729 SE2d 378) (2012) (construing "notwithstanding" clause as indicative of "intent to displace" other law). The Open Records Act is equally clear that its

enforcement provisions apply only to records requests made in compliance with the Act's own specific requirements. See OCGA § 50-18-71 (b) (3) ("[t]he [Act's] enforcement provisions . . . shall be available only to enforce compliance and punish noncompliance when a written request is made *consistent with this subsection*" (emphasis supplied)). Given that Plaintiffs' requests for information were made pursuant to OCGA § 48-5-306 (d) and not OCGA § 50-18-71 (b) (3), the Open Records Act is not available to enforce compliance with such requests.

2. Mandamus is an extraordinary remedy available only where a litigant seeks to compel a public official to perform an act or fulfill a duty that is required by law. See OCGA § 9-6-20. A prerequisite to one's entitlement to a writ of mandamus is a "clear legal right" to the relief being sought. Bibb County v. Monroe County, 294 Ga. 730, 734 (2) (755 SE2d 760) (2014); Humphrey v. Owens, 289 Ga. 721, 722 (715 SE2d 119) (2011). Whether a litigant has a clear legal right to the relief sought depends on the law governing the subject matter at issue. Bibb County, 294 Ga. at 735-736.

Here, the particular law Hansen seeks to enforce, OCGA § 48-5-306 (d), requires a county board of tax assessors to furnish copies of specified documents

and other information to a requesting taxpayer within ten business days of the request. It is undisputed that the Board has provided various documents in response to Plaintiffs' information requests. In his mandamus petition, Hansen seeks supplementation and an explanation of these responses in a recorded meeting session. These demands stray far beyond what the statute requires.[4] The trial court thus properly held that Hansen's request for mandamus was unsupportable as a matter of law.

Furthermore, Hansen's failure to avail himself of the administrative appeals process as set forth in OCGA § 48-5-311 prior to resorting to the courts for relief is in itself a sufficient ground for denying the mandamus nisi. See We, the Taxpayers v. Bd. of Tax Assessors of Effingham County, 292 Ga. 31, 33 (1) (734 SE2d 373) (2012) ("failure to pursue the administrative remedy [in OCGA § 48-5-311] precludes the issuance of a writ of mandamus"); see also Chatham County Bd. of Assessors v. Jepson, 261 Ga. App. 771 (1) (584 SE2d 22) (2003) (holding that even procedural issues regarding sufficiency of the notice of reassessment must be adjudicated first through the administrative appeals

[4] Contrary to Hansen's contention, OCGA § 48-5-311 (h) does not establish a clear legal right in a taxpayer to demand a recorded meeting with Board representatives at his pleasure.

process in OCGA § 48-5-311).

3. We reject Hansen's contention that the trial court erred by denying the request for a mandamus nisi without first holding a hearing, as our mandamus statute clearly authorizes the trial court to do just that where the petition is meritless. See OCGA § 9-6-27 (a) (providing for hearing only *"if* the mandamus nisi is granted" (emphasis supplied)); Kappelmeier v. Iannazzone, 279 Ga. 131 (610 SE2d 60) (2005) (affirming denial of mandamus nisi).

4. Given the above, Hansen's contention that the trial court erred in holding that the additional 30 taxpayers were not properly named as plaintiffs is moot.

Judgment affirmed. All the Justices concur.

Decided June 30, 2014.

Mandamus. DeKalb Superior Court. Before Judge Flake.

Walter H. Hotz, for appellant.

Sam L. Brannen, Jr., Lisa E. Chang, Duane D. Pritchett, for appellees.

THIRD DIVISION
BARNES, P. J.,
BOGGS and BRANCH, JJ.

NOTICE: Motions for reconsideration must be *physically received* in our clerk's office within ten days of the date of decision to be deemed timely filed.
http://www.gaappeals.us/rules/

February 19, 2015

In the Court of Appeals of Georgia

A14A2268. CPF INVESTMENTS, LLLP v. FULTON COUNTY BOARD OF ASSESSORS.

BRANCH, Judge.

This interlocutory appeal arises out of dispute between CPF Investments, LLLP ("CPF") and the Fulton County Board of Assessors ("the Board") over the Board's valuation of certain real property owned by CPF. CPF purchased the property in 2011 from the Federal Home Loan Mortgage Corporation ("Freddie Mac"), and CPF contends that OCGA § 48-5-2 (3)[1] requires the Board to value the property at its 2011 sale price for the 2012 tax year. CPF moved for summary judgment on this issue in the court below and the Board opposed that motion. The Board argued that OCGA

[1] This code section provides in part that for tax appraisal purposes, "the transaction amount of the most recent arm's length, bona fide sale [of a property] in any year shall be the maximum allowable fair market value [of that property] for the next taxable year."

§ 48-5-2 (3) does not apply to sales involving government agencies because such entities are obligated to act in the best interests of their constituents, rather than in the best interests of the entities themselves. Thus, sales involving government agencies cannot meet the statutory definition of an arm's length, bona fide transaction, which requires that both parties to the transaction be acting in their own best interests. The Board further asserted that Freddie Mac constitutes a government agency.

The trial court agreed with the Board and denied CPF's motion for summary judgment. The court then certified its order for immediate review, and we granted CPF's application for an interlocutory appeal. For reasons explained below, we find that the trial court erred as a matter of law when it found that a tax authority may presume that any sale of property that involves a government agency is not an arm's length, bona fide transaction. Additionally, the record shows that the Board failed to come forward with any evidence supporting its assertion that the 2011 sale of the property by Freddie Mac was not an arm's length, bona fide transaction. Thus, regardless of whether Freddie Mac is a government agency, the trial court erred in denying CPF's summary judgment motion.

The facts in this case are undisputed and show that the property at issue is located in a residential subdivision and that a 5-bedroom house is situated on the land. On March 2, 2010, Chase Home Finance, LLC ("Chase"), purchased the

property for $271,735.[2] That same day, Chase sold the property to Freddie Mac for the price at which Chase had purchased it. In June 2010, Freddie Mac offered the property for sale with an asking price of $306,900. The property remained on the market for approximately seven months, until Glenn French, the general partner of CPF, purchased it from Freddie Mac for $207,000 in February 2011. On June 16, 2011, French executed a quitclaim deed transferring the property to CPF.

The Board appraised the property at $370,400 for the 2012 tax year. CPF appealed that valuation to the Board of Equalization ("BOE") asking that the appraisal be lowered to the 2011 purchase price. The BOE subsequently adjusted the appraisal to $340,000. The "Appraiser Notes" in the BOE file state that CFP "was asking for sales price of $207,000[,] which does not reflect the market in 2011. The sale was a Fannie Mae [sic] sale, which the county [does] not recognize. The BOE agreed with the county on a value of $340,000."

CPF appealed the BOE decision to the Fulton County Superior Court, seeking to have the appraised value of the property reduced to the 2011 sales price and asserting a claim for attorney fees. After the case had been pending for six months, CPF moved for summary judgment on the issue of valuation, asserting that under

[2] Chase acquired the property from an owner who had paid $420,000 for the property in June 2002. It therefore appears that Chase purchased the home at a foreclosure sale and Freddie Mac then bought the property from Chase.

OCGA § 48-5-2 (3) the valuation for the 2012 tax year could be no higher than the 2011 sale price of $207,000. In support of its motion, CPF submitted the affidavit of French, who stated that he was not and never had been "related to or affiliated with Freddie Mac," and that the 2011 sale was an arm's length transaction, entered into in good faith and without fraud or deceit. The Board opposed the motion, arguing that sales involving government agencies were presumed not to meet the definition of a bona fide sale under OCGA § 48-5-2 (3) and that Freddie Mac was a government agency. To support these assertions, the Board submitted the affidavit of Douglas Kirkpatrick, the Deputy Chief Appraiser of the residential division of the Fulton County Board of Tax Assessors. Kirkpatrick averred that "[b]ecause government agencies are not willing sellers acting out of self-interest, but acting in the interest of the public, the Tax Assessors' residential staff is trained that sales involving government agencies do not meet the definition of a bona fide sale"; that "[b]ased on its charter, purpose[,] and mission, [Freddie Mac] is acting in the interest of the United States' public, not in its own self-interest"; and that "[a]ccordingly, no sale from [Freddie Mac] is considered by the Tax Assessors as a bona fide sale." Kirkpatrick further indicated that the presumption that sales involving government entities were not bona fide sales was based on OCGA § 48-5-274, which provides a

formula for the State Auditor to use in formulating an adjusted property tax digest for each county.[3]

Relying on Kirkpatrick's affidavit, the trial court found that because "Freddie Mac is a government agency" the 2011 sale of the property did not qualify as an arm's length, bona fide sale under OCGA § 48-5-2 (3). The court further found that the sale did not reflect the fair market value of the subject property. Based on these findings, the court denied CPF's motion for summary judgment. This appeal followed.

Both in the trial court and on appeal, the parties have focused on the question of whether Freddie Mac is a government agency. That question, however, is relevant only if OCGA § 48-5-2 (3) authorizes the Board to treat property sales involving government agencies differently from all other property sales. We therefore begin our analysis by construing the relevant statutory language found in OCGA § 48-5-2.

"When we consider the meaning of a statute, 'we must presume that the General Assembly meant what it said and said what it meant.'" *Deal v. Coleman*, 294 Ga. 170, 172 (1) (a) (751 SE2d 337) (2013) (citation omitted). Thus if the language of the statute is plain and unambiguous, we simply apply the statute as written. See

[3] The Board's reliance on OCGA § 48-5-274 is discussed more fully below.

Opensided MRI of Atlanta v. Chandler, 287 Ga. 406, 407 (696 SE2d 640) (2010); *Frazier v. Southern R. Co.*, 200 Ga. 590, 593 (2) (37 SE2d 774) (1946) (when construing the language of a statute, appellate courts "may not substitute by judicial interpretation language of their own for the clear, unambiguous language of the statute, so as to [change] the meaning").

The first of the statutory provisions at issue, OCGA § 48-5-2 (3), provides:

> "Fair market value of property" means the amount a knowledgeable buyer would pay for the property and a willing seller would accept for the property at an arm's length, bona fide sale. The income approach, if data is available, shall be considered in determining the fair market value of income-producing property. *Notwithstanding any other provision of this chapter to the contrary*, the transaction amount of the most recent arm's length, bona fide sale in any year shall be the maximum allowable fair market value for the next taxable year.

(Emphasis supplied.)

The statute contains no language exempting sales involving government agencies from the mandate found in the last sentence of this code section. Moreover, the above-emphasized language makes clear that this mandate applies to all sales of real property, regardless of the identity of the parties, provided such a transaction

constitutes an "arm's length, bona fide sale."[4] The definition of an "arm's length, bona fide sale" is found in OCGA § 48-5-2 (.1), which provides: "'[a]rm's length, bona fide sale' means a transaction which has occurred in good faith without fraud or deceit carried out by unrelated or unaffiliated parties, as by a willing buyer and a willing seller, each acting in his or her own self-interest, *including but not limited to a distress sale, short sale, bank sale, or sale at public auction*." (Emphasis supplied.)

The Board argues that any sale involving a government agency can never meet the statutory definition of an arm's length, bona fide sale "[b]ecause government[-] sponsored enterprises like [Freddie Mac] [do] not . . . act[ ] out of self-interest, but act[ ] in the interest of the public." To support this presumption, the Board relies on the portion of Title 48 that sets forth the State Auditor's duties in establishing adjusted property tax digests for each county. See OCGA § 48-5-274. That statute instructs the State Auditor to use the "Standard on Assessment-Ratio Studies published by the International Association of Assessing Officers" when establishing

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[4] Additionally, the language of OCGA § 48-5-2 (3) makes clear that so long as the sale at issue was an arm's length, bona fide transaction, the Board may not assess the property at a higher value in the year following that sale, regardless of whether the Board believes the sale price reflects the actual fair market value of a property. Put another way, the Board may not engage in any determination of a property's actual fair market value for assessment purposes until the second year following that property's most recent sale resulting from an arm's length, bona fide transaction.

for each county the "ratio of assessed value to fair market value of county property" subject to taxation. OCGA § 48-5-274 (c). In his affidavit, Kirkpatrick stated that this Standard "provides that sales involving government agencies are generally invalid for the ratio studies used in mass appraisal tax assessments" and "specifically states that these 'types of sales are often found to be invalid for ratio studies and can be automatically excluded unless a larger sample size is needed and further research is conducted to determine that the sales are open market transactions." Citing OCGA § 48-5-274 and Kirkpatrick's affidavit, the Board contends that sales involving government agencies are excluded from "the ratio studies used in mass appraisals . . . because they do not reflect [sales] from a willing seller acting in its own self-interest." Thus, the Board concludes that it is authorized to presume that sales involving government agencies do not constitute arm's length, bona fide sales under OCGA § 45-5-2 (3). We find this argument wholly unpersuasive.

First, the Board offers no support for its assertion as to the reason that real estate transactions involving government agencies are excluded from property tax ratio studies. Although the Board cites to Kirkpatrick's affidavit to support this proposition, Kirkpatrick in fact offered no opinion as to the reasons underlying this asserted rule. Rather, he simply stated that the rule existed. Moreover, the Board fails to offer any reasoned argument or legal authority to explain why we should look to

OCGA § 48-5-274 (which deals with the duties of the State Auditor in formulating county tax digests) to interpret OCGA § 48-5-2 (which defines terms relevant to the ad valorem taxation of property by counties.) Accordingly, we must conclude that had the legislature intended to exempt transactions involving government agencies from the mandate of OCGA § 48-5-2 (3), then the legislature would have expressed that intent directly.[5] See *Six Flags Over Ga. v. Kull*, 276 Ga. 210, 211 (576 SE2d 880) (2003) ("[w]here the language of a statute is plain and unambiguous, judicial construction is not only unnecessary but forbidden") (citation omitted).

In light of the foregoing, the sale at issue must be deemed an arm's length, bona fide sale unless the Board can offer some evidence that would support a finding

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[5] We also find the Board's position – that the best interests of a governmental entity are not and can never be synonymous with the best interests of the public which that entity serves – to be not only cynical, but also contrary to our fundamental understanding of government. As our founding fathers expressed in the Declaration of Independence: "Governments are instituted among Men, deriving their just powers from the consent of the governed." See also The Federalist No. 62 (James Madison) ("A good Government implies two things: first, fidelity to the object of Government, which is the happiness of the People; secondly, a knowledge of the means by which that object can be best attained."); *McCulloch v. Maryland*, 17 U. S. 316, 404-405 (4 Wheat. 316, 4 LEd 579) (1819) ("The government of the Union, then . . . , is, emphatically and truly, a government of the people. In form and in substance it emanates from them. Its powers are granted by them, and are to be exercised directly on them, and for their benefit.") Given these principles, and in the absence of any evidence to the contrary, we must assume that when a government agency acts so as to fulfill its duty to advance the public interest it simultaneously advances its own interests.

that the transaction involved fraud or deceit; that there was some relationship or affiliation between Freddie Mac and French that predated the sale; or that Freddie Mac was, in fact, acting counter to its own best interests in order to benefit French. See OCGA § 48-5-311 (e) (4) (a county's "board of tax assessors shall have the burden of proving its opinions of value and the validity of its proposed assessment by a preponderance of evidence"). Moreover, as noted above, OCGA § 48-5-2 (.1) expressly defines an arm's length, bona fide sale to include those types of transactions where the seller might suffer a financial loss (including distress sales, short sales, bank sales, or sales at public auction). Thus, the mere fact that Freddie Mac suffered a financial loss as a result of the sale is insufficient to show that Freddie Mac was not acting in its best interests.[6]

Here, because the Board bore the burden of proving that Freddie Mac's sale of the property to French was not an arm's length, bona fide sale, CPF was entitled to summary judgment if the record showed either an absence of evidence supporting the Board's position or affirmative proof that contradicted that position – i.e., proof that the sale was an arm's length, bona fide transaction. See *Warner v. Hobby Lobby*

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[6] There could be many reasons why a seller would view such as sale as being in the seller's best interest.

Stores, 321 Ga. App. 121 (741 SE2d 270) (2013). CPF came forward with affirmative evidence, in the form of French's affidavit, that the purchase of the property constituted an arm's length, bona fide transaction. To defeat CPF's summary judgment motion, therefore, the Board was required to come forward with some evidence that disputed French's affidavit and supported the Board's case. Id. Instead, the Board offered only its unfounded presumption that as a government agency, Freddie Mac could never act in its own best interest.[7] Accordingly, CPF was entitled to judgment as a matter of law.

In light of the foregoing, the order of the trial court denying CPF's summary judgment motion is reversed. The case is remanded for entry of judgment in favor of CPF and for consideration of CPF's claim for attorney fees.

Judgment reversed and case remanded with direction. Barnes, P. J., and Boggs, J., concur.

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[7] Again, for purposes of this appeal, we have merely assumed that Freddie Mac is a government agency; we have not decided that issue.

In the Supreme Court of Georgia

Decided: March 27, 2015

S14A1493. SJN PROPERTIES, LLC v. FULTON COUNTY BOARD OF ASSESSORS et al.

HUNSTEIN, Justice.

In 2009, John Sherman, a resident and taxpayer of Fulton County, filed suit, on behalf of himself and all others similarly situated, against the Fulton County Board of Assessors (hereinafter, "FCBOA"), along with its Chief Appraiser and each of its members in their official capacities, to challenge the FCBOA's method of valuing leasehold estates arising from a sale-leaseback bond transaction involving the Development Authority of Fulton County (hereinafter, "DAFC").[1] As described in an earlier appeal arising from this same case, the sale-leaseback transaction at issue here was structured as follows:

> A bond transaction leasehold estate is created when a local development authority, in accordance with its redevelopment powers, enters into a bond transaction agreement with a private developer of certain real property. The local development authority issues revenue bonds under a financing program to the developer,

[1]Shortly after the petition was filed, the DAFC successfully moved to intervene as a defendant in the case.

> who conveys to the authority fee simple title to the property. The development authority and the developer then enter into a multi-year lease arrangement whereby the authority, as owner, leases the property to the developer. The resulting lease payments are used by the local development authority to make the principal and interest payments on the revenue bonds. The terms of the agreement allow the developer to repurchase the fee simple estate for a nominal amount once the revenue bonds are paid down or retired.
>
> As part of the transaction, the parties enter into a written agreement that sets forth a specific method for determining the fair market value of the resulting leasehold estate held by the private developer. The method estimates the initial fair market value of the leasehold estate to be 50 percent of the fair market value of the fee simple estate. The estimated value of the leasehold estate is then "ramped up" by five percent per year. By the eleventh year, the leasehold estate is valued at 100 percent of the fair market value of the fee simple estate.

Sherman v. Fulton County Bd. of Assessors, 288 Ga. 88, 89 (701 SE2d 472) (2010) (hereinafter, "Sherman I"). Sherman claims that this so-called "50% ramp-up" methodology results in the valuation of the developers' leasehold estates at less than fair market value, in violation of defendants' statutory and constitutional duties to ensure that ad valorem taxes are assessed uniformly and at fair market value.

In October 2009, the trial court granted the defendants' motion to dismiss/motion for judgment on the pleadings, and, on appeal, this Court

reversed. Sherman, 288 Ga. at 95. The Court held that the case was not subject to dismissal because, while there was no dispute as to the valuation methodology employed, there was no way to conclusively determine at that stage of the proceedings that such methodology actually resulted in a fair valuation of the leasehold estate. Id. at 93. This Court reasoned:

> [Defendants] argue that their initial valuation of the fee simple estate follows an authorized appraisal approach and takes into account some of the factors referenced above, such as similarly leased properties in the area and the market rents in the area. However, a valuation of the fee simple estate is just the first step. [Defendants] will need to offer evidence as to how their method applied to the leasehold estate incorporates the requisite factors. They assert that we should just assume that every leasehold estate is worth 50 percent of its fee simple estate, but offer no evidence to support this assumption. Without such evidence, and in light of the affidavit filed by Sherman to the contrary, we are unable to determine, pursuant to *DeKalb County Bd. of Tax Assessors v. W.C. Harris & Co.,* supra, that the valuation method used by [Defendants] is not arbitrary and unreasonable, and therefore the petition should not have been dismissed pursuant to OCGA § 9–11–12 (b) (6).

Id.

After remand, SJN Properties, LLC (hereinafter, "SJN") was added as a plaintiff in the action.[2] The plaintiffs filed an amended and restated class action

[2]In December 2013, Sherman moved to be dropped as party to the proceedings, ostensibly for health reasons, leaving SJN as the sole plaintiff in the case.

petition, again seeking declaratory, injunctive, and mandamus relief with respect to the valuation methodology, and adding a claim seeking declaratory, injunctive, and mandamus relief with respect to a subset of DAFC-owned properties involved in these bond transactions, which, according to the plaintiffs, have improperly been treated as tax-exempt. Thereafter, the parties filed cross-motions for summary judgment, and the trial court granted the defendants' motions. Though we find error in the trial court's striking of two affidavits submitted by SJN, we nonetheless, for the reasons set forth below, affirm the grant of summary judgment to the defendants.

1. At the summary judgment hearing, the trial court struck as untimely two affidavits SJN had filed and served on the day before the hearing. The first is the affidavit of expert real estate appraiser J. Carl Schultz, Jr., comprised of 16 pages of testimony accompanied by more than 200 pages of supporting exhibits. The second is the affidavit of John F. Woodham, one of three attorneys of record for SJN; this affidavit is comprised of nine pages of testimony and approximately 150 pages of supporting exhibits. SJN filed these affidavits in the trial court and served them on the defendants on December 19, 2013, the day before the December 20, 2013 summary judgment hearing.

Service was effectuated both by U.S. mail and electronically; defendants' counsel received electronic copies of the affidavits at 5:24 p.m. on December 19. Concluding that these affidavits were untimely filed, the trial court declined to consider them.

SJN contends the trial court erred in striking the affidavits, claiming that they were filed and served in accordance with the Civil Practice Act. Though we find SJN's voluminous eleventh-hour filing discourteous, we are constrained to agree that this filing was technically in compliance with the requirements of the Civil Practice Act and thus that the trial court erred in striking the affidavits. OCGA § 9-11-56 (c) authorizes a party against whom a summary judgment motion has been filed to serve affidavits in opposition to the motion at any time "prior to the day of hearing." See also OCGA § 9-11-6 (d) (governing motions generally, providing that "[o]pposing affidavits may be served not later than one day before the hearing"); Woods v. Hall, 315 Ga. App. 93 (1) (726 SE2d 596) (2012) (vacating grant of summary judgment, finding that trial court erred in striking as untimely plaintiff's opposing affidavit, filed three days prior to hearing). Cf. Brown v. Williams, 259 Ga. 6 (4) (375 SE2d 835) (1989) (opposing affidavit filed on day of hearing was untimely). The Court of

Appeals has, in fact, held that opposing affidavits were timely where served on the day before the hearing only by U.S. mail, such that the movant had not even received them as of the time of the hearing. See Kirkland v. Kirkland, 285 Ga. App. 238 (2) (645 SE2d 626) (2007) (opposing affidavit served by mail on day before summary judgment hearing was timely and properly considered); Martin v. Newman, 162 Ga. App. 725 (2) (293 SE2d 18) (1982) (same). Though we find the gamesmanship in such delayed filings distasteful, we cannot ignore the plain language of OCGA § 9-11-56 (c), which, regrettably, allows parties to employ such tactics.[3] The trial court therefore erred in refusing to consider the Schultz and Woodham affidavits in its adjudication of defendants' motions for summary judgment. In our de novo review of the evidence here, see Jones v. Kirk, 290 Ga. 220, 221 (719 SE2d 428) (2011), we will thus consider these affidavits, to the extent they are otherwise "admissible in the evidence [and] . . . show affirmatively that the affiant is competent to testify to the matters stated

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[3]We note that the Federal Rules of Civil Procedure, on which our Civil Practice Act is modeled, see Ambler v. Ambler, 230 Ga. 281 (1) (196 SE2d 858) (1973), currently require the service of opposing affidavits no later than seven days prior to a hearing. Fed. R. Civ. P. 6 (c) (2). The current rule is more stringent than the prior version, which required only that opposing affidavits be served at least one day before the hearing. See Charles Alan Wright et al., 4B Fed. Prac. & Proc. Civ. § 1170, n.3 (4th ed., updated Jan. 2015).

therein." OCGA § 9-11-56 (e).

2. In reviewing the merits of a trial court's decision on a motion for summary judgment, "'this Court conducts a de novo review of the evidence to determine whether there is a genuine issue of material fact and whether the undisputed facts, viewed in the light most favorable to the nonmoving party, warrant judgment as a matter of law.'" Jones, 290 Ga. at 221. As we stated in Sherman I,

> [t]he overriding issue in this case is whether the valuation method used by [the defendants] fairly and justly establishes the fair market value of a bond transaction leasehold estate such that the method is not "arbitrary or unreasonable." [Cit.]

Sherman, 288 Ga. at 90. The other issue, raised in the plaintiffs' amended petition on remand following Sherman I, is whether certain properties held in fee simple by the DAFC have been and continue to be unlawfully exempted from ad valorem taxation.[4] In connection with the resolution of these issues, SJN seeks a declaratory judgment (a) affirming the invalidity of the 50% ramp-up valuation method, both as employed in connection with the bond transaction

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[4]Specifically, SJN claims that various properties held by the DAFC fall within certain categories specified under state law as ineligible for exemption from ad valorem taxes. See OCGA §§ 36-62-3, 36-62-2 (6) (H) (vi), (J) & (K).

leasehold estates here and in general; and (b) establishing DAFC's liability for back taxes on various properties as to which it has been unlawfully afforded an exemption from ad valorem taxes. In addition, SJN seeks "a mandatory injunction and/or writ of mandamus" to (a) restrain the FCBOA from using the 50% ramp-up valuation method in assessing the value of bond transaction leasehold estates; (b) compel the FCBOA to re-appraise all existing leasehold estates at issue here using an appraisal approach that comports with state law and to issue assessments for the collection of back taxes on such estates to the extent they have been previously under-appraised; and (c) compel the FCBOA to issue ad valorem tax assessment notices to the DAFC as to its non-tax-exempt properties for prior years and to commence such assessments for future years.

(a) We first address SJN's claims regarding the allegedly non-tax-exempt status of certain properties held by the DAFC. In support of its claims in this regard, the only evidence SJN has offered is the affidavit testimony of John Woodham, its own counsel of record. In his affidavit, Woodham identifies various properties owned by the DAFC which he claims constitute either office building or hotel facilities that are specifically excluded from the tax exemption afforded to most development authority-owned property. See OGCA §§ 36-62-

3, 36-62-2 (6) (H) (vi) & (J). Woodham designates these properties via handwritten notations in the margins of a list of DAFC-owned properties, purportedly obtained from the FCBOA during discovery, attached as an exhibit to his affidavit. In the affidavit, Woodham attests that he "personally reviewed the property record information" regarding the designated properties and opines on this basis that these properties are not tax-exempt. SJN offers no other evidence in support of its claims in this regard.

Setting aside the questionable ethics of Woodham's assumption of the role as witness in a case he is prosecuting as counsel of record,[4] we find that Woodham's "testimony" is insufficient to create an issue of material fact on SJN's claims in regard to the tax-exempt status of the DAFC-owned properties at issue. See, e.g., Pfeiffer v. Ga. Dept. of Transp., 275 Ga. 827, 828-829 (2) (573 SE2d 389) (2002) (once a defendant on motion for summary judgment exposes an absence of evidence to support the plaintiff's case, the plaintiff must then "'point to specific evidence giving rise to a triable issue'"). Entirely absent is any factual basis for the conclusion that any of the properties in question

[4]See Georgia Rules of Professional Conduct, Rule 3.7 ("[a] lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness").

actually possess the characteristics an "office building" or "hotel facility" as defined in OCGA § 36-62-2 (6) (H) (vi) & (J). Woodham's "testimony" on this issue is nothing more than legal arguments lacking in evidentiary support; his affidavit is simply a legal brief cloaked under the solemnity of an oath. The fact that SJN could apparently find no witness or documentary evidence that would substantiate its claims on this issue, other than the self-serving so-called "testimony" of its own attorney, demonstrates the propriety of summary judgment on these claims. We therefore affirm the grant of summary judgment as to these claims.

(b) We now consider SJN's claims regarding the FCBOA's use of the 50% ramp-up formula in assessing the value of the bond transaction leasehold estates held by the private developers who are parties to the bond transactions here.

(i) Claims for injunctive relief. As an initial matter, the defendants contend, citing this Court's recent decision in Georgia Dept. of Natural Resources v. Ctr. for a Sustainable Coast, 294 Ga. 593 (755 SE2d 184) (2014), that SJN's claims for injunctive relief are barred by sovereign immunity. We agree. In Sustainable Coast, this Court held that sovereign immunity, in its

current incarnation under this State's constitution, may be waived only by an act of the General Assembly. Id. at 598-601. Accordingly, we overruled precedent that had previously recognized a common law exception to sovereign immunity for suits seeking injunctive relief against the State. Id. at 593, 599-602 (overruling Intl. Bus. Machines Corp. v. Evans, 265 Ga. 215 (453 SE2d 706) (1995)). Thus, after Sustainable Coast, injunction actions against the State, including those against State employees in their official capacity, see id. at 599, n.4, may proceed only where such actions are expressly authorized under our constitution or by a statute evincing the legislature's express intent to permit claimants to seek injunctive relief against the State. Accordingly, SJN's claims for injunctive relief are barred by sovereign immunity.

(ii) Claims for mandamus relief. Sovereign immunity does not, however, preclude SJN's claims for mandamus relief. See Southern LNG, Inc. v. MacGinnitie, 290 Ga. 204 (719 SE2d 473) (2011).[5] Our mandamus statute expressly authorizes claimants to seek relief against a public official "whenever . . . a defect of legal justice would ensue from [the official's] failure to perform

[5]Were we to hold otherwise, mandamus actions, which by their very nature may be sought only against public officials, would be categorically precluded by sovereign immunity.

or from improper performance" of "official duties." OCGA § 9-6-20. SJN, as a citizen and taxpayer of Fulton County, clearly has standing to seek the type of mandamus relief it requests here. See OCGA § 9-6-24 (conferring standing to seek mandamus relief on any person "interested in having the laws executed and the duty in question enforced"); Southern LNG, Inc. v. MacGinnitie, 294 Ga. 657 (2) (755 SE2d 683) (2014) (corporate taxpayer had standing to sue for mandamus to compel State Revenue Commissioner to recognize it as a "public utility" for ad valorem tax purposes).[6]

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[6]We note that we have previously held that OCGA § 9-6-24 and its predecessor statute confer standing to seek enforcement of public duties not only via mandamus but also by injunction. See, e.g., Arneson v. Bd. of Trustees of Employers' Retirement Sys. of Ga., 257 Ga. 579 (2) (b), (c) (361 SE2d 805) (1987) (taxpayers generally have standing to seek to enjoin public officials from committing ultra vires acts); Griggs v. Green, 230 Ga. 257 (1) (197 SE2d 116) (1973) (taxpayer had standing to seek to enjoin taxing authorities from proceeding under allegedly void and illegal tax digest); Head v. Browning, 215 Ga. 263 (2) (109 SE2d 798) (1959) (taxpayers had standing to seek to enjoin State Revenue Commissioner from issuing liquor license to defendant). In none of these cases did we address sovereign immunity, likely due, at least in part, to their timing in relation to the evolution of our doctrine of sovereign immunity and whether judicially-created exceptions to the doctrine – such as that for injunction actions – were recognized as valid. See Sustainable Coast, 294 Ga. at 597-599 (examining history of sovereign immunity from its adoption in our common law in 1784, to its constitutionalization in 1974, and subsequent changes with the adoption of the Georgia Constitution of 1983 and further amendments in 1991). Insofar as these and similar cases permitted the prosecution of injunction actions against state officials, they now stand abrogated by Sustainable Coast; however, to the extent these cases simply confirmed a taxpayer's standing to seek to enforce a public duty by way of some viable cause of action, they remain good law.

In order to be entitled to mandamus relief, a claimant must establish that "(1) no other adequate legal remedy is available to effectuate the relief sought; and (2) the applicant has a clear legal right to such relief." Bibb County v. Monroe County, 294 Ga. 730, 734 (2) (755 SE2d 760) (2014). Pretermitting whether another adequate legal remedy is available here, we conclude, as explained below, that SJN has failed to come forth with evidence of a clear legal right to the relief it is seeking.

> A clear legal right to the relief sought may be found only where the claimant seeks to compel the performance of a public duty that an official or agency is required by law to perform. . . . Where performance is required by law, a clear legal right to relief will exist either where the official or agency fails entirely to act or where, in taking such required action, the official or agency commits a gross abuse of discretion.

Id. at 735. Here, SJN seeks to compel the FCBOA to fulfill its statutory duty in relation to the assessment of ad valorem taxes within its jurisdiction. The essence of this duty is

> to see that all taxable property within the county is assessed and returned at its fair market value and that fair market values as between the individual taxpayers are fairly and justly equalized so that each taxpayer shall pay as nearly as possible only such taxpayer's proportionate share of taxes.

OCGA § 48-5-306 (a); see also Ga. Const. of 1983, Art. VII, Sec. I, Par. III (requiring uniformity in taxation). As to the fulfillment of this duty, we have held:

> Tax assessors are authorized to fix the fair market value of property for taxes from the best information obtainable. This does not require the tax assessors to use any definite system or method, but demands only that the valuations be just and that they be fairly and justly equalized among the individual taxpayers . . . according to the best information obtainable.

(Citations and punctuation omitted.) Colvard v. Ridley, 218 Ga. 490, 490 (1) (128 SE2d 732) (1962); accord Sherman, 288 Ga. at 91 ("[i]t is clear that county boards of tax assessors are not required to use any particular appraisal approach or method when determining the fair market value of property").

In sum, the FCBOA's duty is to assess all taxable properties within its jurisdiction at fair market value, utilizing the "best information obtainable." In support of their motions for summary judgment, the defendants have adduced the testimony of two expert real estate appraisers, both of whom opine that the 50% ramp-up formula is an analytically sound approach that comports with standard appraisal practice and, in the words of one of these witnesses, "represents an appropriate, reasonable, and non-arbitrary simplified method of

arriving at the fair market value for tax purposes of the leasehold interest[s]" at issue. This Court has in fact previously endorsed the concept of a formula for the valuation of leasehold estates in property held in fee simple by a county development authority. See DeKalb County Bd. of Tax Assessors v. W.C. Harris &Co., 248 Ga. 277, 280-281 (3) (282 SE2d 880) (1981) ("[w]e do not find the method of valuation utilized . . . to be an arbitrary or unreasonable one, and . . . the trial court did not err in approving the formula adopted in these cases"); see also Coweta County Bd. of Tax Assessors v. EGO Products, Inc., 241 Ga. App. 85, 87 (1) (526 SE2d 133) (1999) (noting with approval county board of tax assessors' "long-standing policy of taxing leasehold interests in real property that are the subject of a financing agreement . . . at 50 percent of the appraised value for the term of the lease").

Not surprisingly, SJN's expert appraiser disagrees with the defendants' experts, contending that, because of the structure of the bond transaction and the terms of the operative agreements, virtually 100% of any leased property's value resides in the leasehold at all times during the term of the lease and that use of the 50% ramp-up formula thus systematically underestimates the value of the

leasehold estate.[7] However, this witness, while assailing in the abstract the assumptions underlying the 50% ramp-up formula, admitted at his deposition that he has not actually appraised any of the leasehold estates involved in this case. Critically, when this witness was asked point-blank whether the assessed values of any of the properties at issue here in any given tax year were incorrect, he replied that he did not know.

In the end, though much ink is spilled in the parties' debate over whether the 50% ramp-up formula, in the abstract, is the best – or even a valid – methodology for valuing the leasehold estates here, SJN's mandamus claims fail for the simple reason that it has adduced no evidence that any actual assessment of any particular property has been or is other than at fair market value. SJN has thus failed to adduce any evidence that the FCBOA has failed to comply with its legal duty to "see that all taxable property within the county is assessed and returned for taxes at its fair market value." OCGA § 48-5-306 (a). On the

[7]We note that the defendants moved in the trial court to exclude the testimony of SJN's expert as lacking the prerequisites for admissibility of expert testimony under OCGA § 24-7-702 (b). As the trial court did not rule on this motion, we have no occasion to review this issue and thus assume for present purposes that this testimony would be admissible at trial.

evidentiary record presented, SJN's claims for mandamus relief cannot withstand summary judgment.

(iii) Claims for declaratory relief. We have previously left unresolved the question of whether sovereign immunity generally bars claims against the State for declaratory relief. See Southern LNG, 290 Ga. at 205-206 & n.1 (expressly sidestepping issue of whether declaratory judgment actions against the State are generally barred by sovereign immunity, but noting that this Court has in the past in certain contexts permitted declaratory judgment actions to proceed against state agencies and officials). But see DeKalb County Sch. Dist. v. Gold, 318 Ga. App. 633, 637 (1) (a) (734 SE2d 466) (2012) (holding that "[o]ur Constitution and statutes do not provide for a blanket waiver of sovereign immunity in declaratory-judgment actions"). Under the rationale of Sustainable Coast, it appears that, absent a statutory provision affording claimants an express right to seek declaratory relief against the State, sovereign immunity would bar such claims. See Gold, 318 Ga. App. at 637 (noting that OCGA § 50-13-10 provides for specific waiver of sovereign immunity for declaratory judgment actions challenging state agency administrative rules). Because this

significant legal issue has received little attention in these proceedings and because these claims can be disposed of on other grounds, as discussed below, we decline to definitively resolve it here.

> Our Declaratory Judgment Act, OCGA § 9–4–2, provides that the superior courts may declare rights and other legal relations of any parties petitioning for declaratory relief in "cases of actual controversy," or when "the ends of justice require that the declaration should be made." The purpose of the Act is "to settle and afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations." OCGA § 9–4–1. The proper scope of declaratory judgment is to adjudge those rights among parties upon which their future conduct depends.

Fourth St. Baptist Church of Columbus v. Bd. of Registrars, 253 Ga. 368, 369 (1) (320 SE2d 543) (1984). Accordingly, declaratory relief is proper only where the party seeking such relief faces some uncertainty or insecurity as to rights, status, or legal relations, upon which its future conduct depends. See, e.g., Baker v. City of Marietta, 271 Ga. 210, 214 (1) (518 SE2d 879) (1999) ("[w]here the party seeking declaratory judgment does not show it is in a position of uncertainty as to an alleged right, dismissal of the declaratory judgment action is proper"); Fourth St. Baptist Church of Columbus, 253 Ga. at 369 (claims for declaratory relief were properly dismissed, where plaintiffs

"face[d] no uncertainty or insecurity with respect to their voting rights, nor any risk stemming from undirected future action"); Henderson v. Alverson, 217 Ga. 541 (123 SE2d 721) (1962) (declaratory judgment action could not be maintained where plaintiff failed to allege need for guidance as to his future conduct but rather merely sought declaration that legislative enactment was void). Here, SJN faces no uncertainty or insecurity as to any of *its own* future conduct, but rather seeks an adjudication only of issues that will impact the future conduct of the FCBOA. As such, SJN's claims for declaratory relief cannot be maintained, and summary judgment was properly granted thereon.

In summary, though we find error in the trial court's striking of the Schultz and Woodham affidavits, we nonetheless, for the foregoing reasons, affirm the grant of summary judgment to the defendants as to all of SJN's claims.

Judgment affirmed. All the Justices concur.