

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 3 of Title 5 of the Official Code of Georgia Annotated, relating to  
2 appeals to superior or state court, so as to provide for a unified procedure for appealing  
3 decisions of a lower judiciary to a superior or state court; to provide for a short title; to  
4 provide for definitions; to provide for superior and state court appellate jurisdiction and  
5 related exceptions; to provide for the preemption of certain laws; to provide for a uniform  
6 appellate procedure to superior and state courts; to clarify the standard of review; to  
7 provide for appeals to a jury; to provide for the permissibility of equitable practices and  
8 procedures not prescribed; to provide for standardized general procedures for appeals to  
9 superior and state court; to provide for petitions for review, responses, replies, and  
10 amendments thereto; to provide for the management of court proceedings and other  
11 related matters; to provide for service of process; to provide for deadline extensions; to  
12 provide for limited grounds for dismissal; to provide for transfers when venue or  
13 jurisdiction are improper; to provide for the record on appeal; to provide for transmission  
14 of the record; to provide for notice of a petitioner confined to jail; to provide for remand;  
15 to provide for the payment of costs and related exceptions; to provide for bonds and  
16 related security; to provide for procedures after review; to provide for dismissal or  
17 withdrawal and the effects thereof; to provide for damages for frivolous appeals and  
18 defenses in civil cases; to provide for the recovery of costs; to repeal and reserve Chapter  
19 4 of Title 5 of the Official Code of Georgia Annotated, relating to certiorari to superior  
20 court; to amend Titles 3, 4, 10, 12, 15, 17, 22, 31, 32, 33, 34, 36, 37, 38, 40, 41, 43, 44,  
21 47, and 48 of the Official Code of Georgia Annotated, relating to alcoholic beverages,  
22 animals, commerce and trade, conservation and natural resources, courts, criminal  
23 procedure, eminent domain, health, highways, bridges, and ferries, insurance, labor and  
24 industrial relations, local government, mental health, military, emergency management,  
25 and veterans affairs, motor vehicles and traffic, nuisances, professions and businesses,  
26 property, retirement and pensions, and revenue and taxation respectively, so as to  
27 conform provisions to the new Chapter 3 of Title 5; to correct cross-references and  
28 remove obsolete or improper references; to provide for legislative findings and intent; to  
29 provide for related matters; to provide for an effective date and applicability; to repeal  
30 conflicting laws; and for other purposes.

31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

32 **SECTION 1.**

33 Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is  
34 amended by repealing in its entirety Chapter 3, relating to appeals to superior or state  
35 court, and enacting a new Chapter 3 to read as follows:

36 **“CHAPTER 3**

37 5-3-1.

38       This Act shall be known and may be cited as the “Superior and State Court Appellate  
39       Practice Act.”<sup>1</sup>

40       5-3-2.

41       (a) The General Assembly finds that many appeals from a lower judicatory to a  
42       superior or state court result in dismissal on complex procedural grounds and not a  
43       decision on the merits.

44       (b) It is the intent of the General Assembly in enacting this Act to:

45       (1) Provide a single, modern, and uniform procedure called a “petition for  
46       review” for appealing a decision made by a lower judicatory to a superior or  
47       state court, as authorized the laws and the Constitution of this state;

48       (2) Increase access to justice through the greater resolution of appeals on the  
49       basis of substantive issues rather than on complex procedural grounds; and

50       (3) Retain the limited appellate jurisdiction of state courts prescribed in the  
51       Constitution of Georgia and Code sections outside of this chapter.

52       (c) With the intent of the General Assembly in mind and consistent with the laws  
53       and the Constitutions of the United States and Georgia, the courts shall:

54       (1) Construe the provisions of this Act broadly so as to bring about a decision  
55       on the merits and avoid dismissal of any case or refusal to consider any points  
56       raised therein unless dismissal or refusal is expressly required by statute;

57       (2) Construe any petition for review filed under this chapter according to its  
58       substance, merit, and function and not merely its style, form, or title; and

59       (3) Not construe this chapter to expand the limited appellate jurisdiction of state  
60       courts prescribed in the Constitution of Georgia and Code sections outside of  
61       this chapter.

62       5-3-3.

63       As used in this chapter the term:

64       (1) “Article 6 probate court” means a probate court with expanded jurisdiction  
65       as defined in Article 6 of Chapter 9 of Title 15.<sup>2</sup>

66       (2) “Clerk” means a clerk of court or an individual who acts as the functional  
67       equivalent of a clerk of court if a lower judicatory does not have an official clerk  
68       of court.

69       (3) “Decision” means any formal or informal<sup>3</sup> adjudication, decision,  
70       determination, judgment, order, ruling, or other act that is judicial or quasi-  
71       judicial in nature.<sup>4</sup>

72       (4) “Final judgment” means a decision of a lower judicatory in a case that is no  
73       longer pending in a lower judicatory in which a petitioner has:  
74           (A) Exhausted all appeals or administrative remedies available in a lower  
75           judicatory; and  
76           (B) Satisfied all conditions precedent to appeal provided by law, including  
77           the conditions set forth in Code Section 33-2-26.<sup>5</sup>  
78       (5) “Judicatory” means any court, official, board, tribunal, commission,  
79       municipal or county authority, council, or similar body exercising judicial or  
80       quasi-judicial powers authorized by law. “Judicatory” shall include an  
81       arbitrator, administrative law judge, mediator, or similar adjudicator authorized  
82       by law to act on behalf or at the request of any public official or body.  
83       (6) “Lower judicatory” means any judicatory:  
84           (A) Inferior in authority to the superior and state courts; and  
85           (B) Subject to the appellate jurisdiction of the superior or state courts as  
86           provided by the laws and the Constitution of this state.<sup>6</sup>  
87       (7) “Person” means an individual, artificial person, or other entity.  
88       (8) “Petition for review” means any request for review of a final judgment filed  
89       in a reviewing court by a petitioner including, but not limited to, any request for  
90       review formerly titled as follows: petition for writ of certiorari, petition for writ  
91       of mandamus, petition for writ of prohibition, or notice of appeal.<sup>7</sup>  
92       (9) “Reporting” shall have the same meaning as “court reporting” as defined in  
93       Code Section 15-14-22.  
94       (10) “Respondent” means a person who is adverse to the petitioner and a party  
95       to the dispute underlying the final judgment rendered by the lower judicatory.<sup>8</sup>  
96       Except for reasons other than having rendered the final judgment under review,  
97       the term “respondent” shall not include any judge, official, or member of the  
98       lower judicatory that rendered the final judgment under review.  
99       (11) “Reviewing court” means a superior or state court reviewing a final  
100      judgment pursuant to this chapter.

101      5-3-4.  
102      (a) Except as provided in subsection (b) of this Code section, the superior and state  
103      courts shall have appellate jurisdiction pursuant to this chapter over a final judgment  
104      of a lower judicatory.  
105      (b) The superior courts shall not have appellate jurisdiction pursuant to this chapter  
106      over any state court. The state courts shall not have appellate jurisdiction pursuant  
107      to this chapter over any superior court. In addition, neither a superior court nor a

108 state court shall have appellate jurisdiction pursuant to this chapter over the  
109 following courts<sup>9</sup> or matters:

- 110 (1) Juvenile courts.
- 111 (2) The Municipal Court of Columbus.
- 112 (3) The Civil Court of Macon-Bibb County.
- 113 (4) The Civil Court of Richmond County.
- 114 (5) The Georgia State-wide Business Court.<sup>10</sup>
- 115 (6) A civil case in an Article 6 probate court.<sup>11</sup>
- 116 (7) An order appointing a temporary administrator.<sup>12</sup>

117 (c) Except as provided in subsection (g) of Code Section 5-3-17,<sup>13</sup> this chapter shall  
118 preempt any local law, locally enacted law, ordinance, regulation, rule, or procedure  
119 in conflict with this chapter governing an appeal of a final judgment to a court of  
120 review.<sup>14</sup>

121 5-3-5.<sup>15</sup>

122 (a) Except as provided in subsection (b) of this Code section or otherwise provided  
123 by law,<sup>16</sup> a reviewing court shall:<sup>17</sup>

- 124 (1) Review only matters raised in the record of the proceeding in the lower  
125 judicatory.<sup>18</sup>
- 126 (2) Accept the findings of fact and credibility of the lower judicatory unless they  
127 are clearly erroneous;<sup>19</sup>
- 128 (3) Accept a decision regarding an issue within the sound discretion of the lower  
129 judicatory unless such a decision was an abuse of discretion.<sup>20</sup>
- 130 (4) Determine whether the final judgment was sustained by sufficient  
131 evidence;<sup>21</sup> and
- 132 (5) Review questions of law de novo.<sup>22</sup>

133 (b) A reviewing court shall conduct a de novo proceeding under this chapter if a de  
134 novo proceeding is specified by law.<sup>23</sup>

135 (c) Cases reviewed under subsection (b) of this Code section shall be heard by the  
136 reviewing court without a jury unless a jury trial is ordered by the reviewing court  
137 and authorized by law.<sup>24</sup>

138 (d) A demand for a jury trial under this chapter shall be filed in the reviewing court  
139 within 30 days after filing a petition for review.<sup>25</sup>

140 5-3-6.

141 (a) A petitioner invokes the appellate jurisdiction of a reviewing court under this  
142 chapter by filing a petition for review with the clerk of the reviewing court.

143       (b) The consent of the lower judicatory shall not be required for the filing of a  
144       petition for review.

145       5-3-7<sup>26</sup>

146       (a) Except as otherwise prescribed by law, superior and state court appellate  
147       practices and procedures not prescribed in this chapter shall be governed by the  
148       applicable superior or state court rules and orders of the reviewing court not in  
149       conflict with this chapter.

150       (b) A petitioner shall file a petition for review with the clerk of the reviewing court  
151       within 30 days<sup>27</sup> after the final judgment of the lower judicatory is:

152           (1) Signed<sup>28</sup> and notice of the final judgment has been provided to all parties (if  
153           a lower judicatory does not have a clerk); or

154           (2) Filed or recorded, whichever first occurs (if a lower judicatory has a clerk).<sup>29</sup>

155       (c) Except as provided in subsection (d) of this Code section, all parties to the  
156       proceedings in the lower judicatory are parties in the reviewing court.<sup>30</sup>

157       (d) Except for reasons other than having rendered the final judgment under review,  
158       any judge, official, or member of a lower judicatory that rendered the final judgment  
159       under review shall not be a party, defendant, or respondent in a petition for review.

160       To correct such error, the reviewing court shall:

161           (1) Require a petitioner to amend the petition for review; or

162           (2) Upon the reviewing court's own motion, order the erroneously named judge,  
163           official, or member of a lower judicatory dismissed.<sup>31</sup>

164       (e) Except as otherwise required by law,<sup>32</sup> a petition for review shall contain in  
165       substantially similar form the following:<sup>33</sup>

166           (1) A caption stating the name of the petitioner and the name of the respondent,  
167           if any.

168           (2) The title "PETITION FOR REVIEW TO (SUPERIOR OR STATE)  
169           COURT" below the caption.

170           (3) A body including the following:

171              (A) The statement: "(name of petitioner), the petitioner named above,  
172              hereby petitions the (Superior or State) Court of (name of county) for  
173              review of the final judgment rendered by (name of lower judicatory) on  
174              (date) with the following case number designated by the lower judicatory:  
175              (lower judicatory case number) ."

176              (B) A concise statement of the final judgment appealed.

177              (C) A brief statement describing any existing recording, transcript, or other  
178              record of evidence in the lower judicatory.

179                   (D) A brief statement of the offense and sentence prescribed by the lower  
180                   judicatory, if any, to include whether the petitioner in a criminal case is  
181                   confined in jail or otherwise incarcerated pending the appeal.<sup>34</sup>  
182                   (4) The name, mailing address, telephone number, and email address,<sup>35</sup> if any,  
183                   of:  
184                       (A) Counsel for the petitioner; or  
185                       (B) The petitioner, if the petitioner is a self-represented litigant.  
186                   (f) Failure to provide the information required by subsection (e) of this Code section  
187                   shall be an amendable defect and such defect shall be cured as directed by the  
188                   reviewing court.  
189                   (g) The petitioner shall serve a copy of the petition for review on all parties within  
190                   five days after filing the petition for review in the reviewing court.<sup>36</sup>  
191                   (h) The petitioner shall serve the lower judicatory with a copy of the filed petition  
192                   for review within five days after filing the petition for review in the reviewing court.  
193                   The copy of the petition for review served on the lower judicatory shall contain the  
194                   case number assigned by the reviewing court. If the lower judicatory has a clerk, the  
195                   copy of the petition for review shall be deemed served on the lower judicatory by  
196                   service of a copy of the petition for review on the clerk.

197                   5-3-8.<sup>37</sup>  
198                   (a) The respondent shall file a response<sup>38</sup> to a petition for review with the reviewing  
199                   court within 30 days after being served with a copy of the petition for review.<sup>39</sup> If a  
200                   de novo proceeding is required as specified in subsection (b) of Code Section 5-3-5,  
201                   the response shall include any counterclaim, cross-appeal, defense, or third-party  
202                   claim asserted by the respondent.<sup>40</sup>  
203                   (b) A cross-appeal or counterclaim shall not require a response, unless one is  
204                   required by order of the court, and shall automatically stand denied.<sup>41</sup>  
205                   (c) A reply, if any, shall be filed by a petitioner within 30 days after being served  
206                   with a copy of the respondent's response. If a de novo proceeding is required as  
207                   specified in subsection (b) of Code Section 5-3-5, the petitioner's reply shall include  
208                   any counterclaim, cross-appeal, defense, or third-party claim asserted by the  
209                   petitioner.<sup>42</sup>  
210                   (d) A party may amend a petition for review, response, or reply under this chapter as  
211                   a matter of course and without leave of the reviewing court at any time before the  
212                   entry of a pretrial order or before a hearing on the merits is held by the reviewing  
213                   court, whichever shall first occur. Thereafter, a party may amend a petition for  
214                   review, response, or reply only by leave of the reviewing court or by written consent

215 of each adverse party. Such leave shall be freely given by the reviewing court if  
216 justice so requires.<sup>43</sup>

217 (e) A party shall serve a copy of any pleading filed with the reviewing court on all  
218 parties to the proceeding.

219 5-3-9.

220 (a) The reviewing court may issue such orders and writs as may be necessary to aid  
221 in its jurisdiction and manage court proceedings under this chapter.<sup>44</sup>

222 (b) The reviewing court shall grant continuances and enter such other orders as may  
223 be necessary to permit a just and expeditious review of a petition for review.<sup>45</sup>

224 (c) After a petition for review is filed in the reviewing court, the reviewing court  
225 shall:

226 (1) Establish filing deadlines for any necessary documents; and

227 (2) Schedule any necessary proceedings or hearings.

228 (d) If, in the lower judiciary, there is more than one party plaintiff or defendant, and  
229 one or more of the parties plaintiff or defendant desire to appeal, and the others refuse  
230 or fail to appeal, the party plaintiff or defendant desiring to appeal may file a petition  
231 for review in the manner provided in this chapter.<sup>46</sup> Upon the appeal, all parties shall  
232 be bound by the final decision of the reviewing court; but if damages are awarded  
233 upon such appeal, the damages shall only be recovered against the party appealing  
234 and the appealing party's security, if any, and not against the party failing or refusing  
235 to appeal.<sup>47</sup>

236 (e) The monetary limitations provided for in paragraph (5) of Code Section 15-10-2  
237 shall not apply to any decision rendered by the reviewing court under this chapter.<sup>48</sup>

238 5-3-10.

239 (a) As used in this Code section, the term "perfected" means to take all legal steps  
240 needed to complete service of process.<sup>49</sup>

241 (b) Except as otherwise provided by law,<sup>50</sup> service of process under this chapter shall  
242 be made in the following manner:<sup>51</sup>

243 (1) A party's attorney or agent authorized to receive service shall be served with  
244 any document, unless:

245 (A) Direct service on a party is ordered by the reviewing court; or

246 (B) A specific manner of service is otherwise required by law.<sup>52</sup>

247 (2) Service of any document shall be made either in person, by mail, or  
248 electronically if consent to electronic service is given as provided in this Code  
249 section.

250                   (3) Proof of service shall be shown by:  
251                    (A) Acknowledgment of the attorney or party served; or  
252                    (B) A certificate of service from the attorney, party, or other person  
253                    perfecting service.  
254                   (4) The certificate of service provided for in this subsection shall:  
255                    (A) Be attached to the original of the document to be served;  
256                    (B) Be taken as prima-facie proof of service; and  
257                    (C) Read substantially as follows: “I do certify that (number of copies) of  
258                    the attached document(s) have been furnished to (insert name of party  
259                    served) by (delivery, mail, or email) on (date delivered, mailed, or  
260                    emailed).”  
261                   (5) Service of any document may be perfected either before or after filing such  
262                   service with the clerk. If service is made by mail, it shall be deemed perfected  
263                   on the day it was deposited in the mail. If service is perfected by mail, three  
264                   days shall be added to any deadline required for a response, to allow for mailing.  
265                   (6) If the address of any party is unknown and the party is not represented by an  
266                   attorney of record, service may be perfected on the party by mail directed to the  
267                   last known address of the party.  
268                   (7) Service may be waived or acknowledged either before or after filing.  
269                   (c) A person may consent to being served with pleadings electronically in a petition  
270                   for review as provided for in subsection (f) of Code Section 9-11-5.  
  
271                   5-3-11.  
272                   (u) Any party requesting a filing deadline extension from the reviewing court shall  
273                   do so before the expiration of the existing filing period in effect whether prescribed  
274                   or extended.  
275                   (b) The reviewing court shall only grant one filing deadline extension not to exceed  
276                   30 days for the filing of a petition for review under subsection (b) of Code Section  
277                   5-3-7. The reviewing court may grant such filing deadline extensions for other  
278                   documents as may be necessary to permit a just and expeditious review of a petition  
279                   for review.  
280                   (c) The clerk of the reviewing court shall promptly serve all parties and the clerk of  
281                   the lower judiciary with a copy of:  
282                    (1) Any extension granted under this Code section; and  
283                    (2) The corresponding motion filed to request such extension.

284                   5-3-12.

285       (a) Except for a final decision on the merits, a reviewing court shall not dismiss a  
286       petition for review unless the reviewing court finds one or more of the following:  
287           (1) Failure to file a petition for review within the time prescribed or extended.  
288           (2) The reviewing court lacks jurisdiction.  
289           (3) The question presented by the petitioner is moot.  
290           (4) The absence of a justiciable controversy.  
291           (5) Failure of a petitioner to prosecute.<sup>53</sup>  
292           (6) Failure of a petitioner to comply with this chapter or any court rule or order.<sup>54</sup>  
293       (b) The reviewing court shall not immediately dismiss a petition for review because  
294       of any defect in the petition for review, bond, or affidavit of indigence, or because  
295       of the failure of the lower judicatory to transmit any document.  
296       (c) The reviewing court shall give the petitioner a reasonable opportunity to amend  
297       a petition for review, bond, or affidavit of indigence for the purpose of curing any  
298       defect.<sup>55</sup> The reviewing court may impose such filing deadlines for amendments  
299       under this subsection as may be necessary to permit a just and expeditious review of  
300       a petition for review.  
301       (d) The reviewing court shall not immediately dismiss a petition for review for  
302       failure to perfect service on any party if the party obligated to perfect service shows  
303       due diligence in attempting to timely perfect service.<sup>56</sup>

304       5-3-13.  
305       (a) A petitioner shall file a petition for review in the superior or state court where  
306       venue and jurisdiction are proper as prescribed by the laws and the Constitution of  
307       this state.<sup>57</sup>  
308       (b) Upon a finding by a lower judicatory, a reviewing court, the Court of Appeals,  
309       or the Supreme Court that venue is improper or jurisdiction is lacking for any petition  
310       for review, the clerk of the applicable court shall promptly transfer a petition for  
311       review to a court where venue and jurisdiction are proper in accordance with the  
312       rules and procedures applicable to the transferring court.

313       5-3-14.<sup>58</sup>  
314       (a) In misdemeanor and civil cases, a lower judicatory may require the audio or video  
315       recording, reporting, or transcribing of the evidence and proceedings in the lower  
316       judicatory on terms prescribed by the lower judicatory.<sup>59</sup>  
317       (b) Except as provided in subsection (c) of this Code section, in civil cases where a  
318       transcript of the evidence and proceedings in the lower judicatory has not been  
319       prepared and a transcript is necessary to conduct a review under this chapter, the

320 petitioner shall prepare a transcript at the petitioner's expense from recollection or  
321 otherwise only if the petitioner is financially able to pay the costs of transcribing.<sup>60</sup>  
322 (c) In civil cases, the lower judicatory may require the parties to share the cost of  
323 reporting or transcribing the evidence and proceedings in the lower judicatory;  
324 provided, however, a lower judicatory shall not require a party to share such costs if  
325 that party is financially unable to pay.<sup>61</sup> If the lower judicatory determines that any  
326 or all of the parties are financially unable to pay such costs, the lower judicatory, in  
327 its discretion, may authorize the trial of the case to go unreported.<sup>62</sup>  
328 (d) Any party shall have the right to have any criminal or civil case in a lower  
329 judicatory reported or transcribed at the party's own expense.<sup>63</sup>  
330 (e) If a proceeding in the lower judicatory is reported, the court reporter shall report  
331 and transcribe all:<sup>64</sup>  
332     (1) Motions;  
333     (2) Colloquies;  
334     (3) Objections;  
335     (4) Rulings;  
336     (5) Evidence, whether admitted or stricken on objection or otherwise;  
337     (6) Copies or summaries of all documentary evidence;  
338     (7) The charge of the court; and  
339     (8) Other proceedings before the court.  
340 (f) The lower judicatory shall ensure that all matters listed in subsection (e) of this  
341 Code section are included in any transcript or record transferred to the reviewing  
342 court.<sup>65</sup>  
343 (g) If matters in a lower judicatory are not reported, such as objections to oral  
344 argument, misconduct of the jury, or other like instances and a party requests a  
345 transcript of such matters, the lower judicatory shall order a transcript be prepared  
346 from recollection or otherwise and included as a part of the record transferred to the  
347 reviewing court.<sup>66</sup>  
348 (h) A transcript of the proceedings in a lower judicatory shall not be reduced to  
349 narrative form unless all parties agree; but if the transcript of the evidence and  
350 proceedings is not available and the transcript is prepared from recollection, a  
351 transcript may be prepared in narrative form.<sup>67</sup>  
352 (i) If a court reporter transcribes the evidence and proceedings in the lower  
353 judicatory, the court reporter shall complete the transcript and file the original and  
354 one copy of the transcript with the clerk of the lower judicatory together with a court  
355 reporter's certificate attesting to its correctness. Upon filing of the transcript by the  
356 court reporter, the transcript shall become part of the record.<sup>68</sup>

- 357       (j) The clerk of the lower judicatory shall ensure that a true copy of the transcript of  
358       the evidence and proceedings in the lower judicatory is included in the record  
359       transmitted to the reviewing court under this chapter.<sup>69</sup>
- 360       (k) If the parties cannot agree regarding whether the transcript or record truly or fully  
361       discloses what transpired in the proceeding in the lower judicatory, the lower  
362       judicatory shall schedule a hearing with notice to all parties to resolve the dispute  
363       and conform the record to the truth.<sup>70</sup>
- 364       (l) A transcript of evidence and proceedings that is prepared from recollection with  
365       an attached statement that all parties agree to its contents shall carry the same  
366       authority as a transcript prepared by a court reporter; but if the parties cannot agree  
367       regarding the correctness of a transcript prepared from recollection, the lower  
368       judicatory shall decide whether it is correct. If the lower judicatory is unable to recall  
369       what transpired in the case under review, the lower judicatory shall issue a decision  
370       stating that fact. The lower judicatory's decision under this subsection is final and  
371       not subject to review.<sup>71</sup>
- 372       (m) If anything material to any party is omitted from or misstated in the record under  
373       review, the parties may stipulate or the lower judicatory may direct that the omission  
374       or misstatement be corrected before or after the record is transmitted to the reviewing  
375       court. The clerk of the lower judicatory shall promptly transmit to the reviewing  
376       court any correction of the record made after the record is transmitted to the  
377       reviewing court.<sup>72</sup>
- 378       (n) The lower judicatory may transmit a supplemental record to the reviewing  
379       court.<sup>73</sup>
- 380       (o) The lower judicatory or the reviewing court may order the clerk of the lower  
381       judicatory to send up any original documents, exhibits, or other items in the case  
382       under review. The reviewing court shall return such original documents, exhibits,  
383       or other items to the lower judicatory after the final disposition of the case under  
384       review.<sup>74</sup>
- 385       (p) If a lower judicatory does not allow a party to file a document for inclusion in  
386       the record for a petition for review, such party may file the document in the  
387       reviewing court with an attached notation of the lower judicatory's disallowance. In  
388       such case, the document shall become part of the record under review.<sup>75</sup>
- 389       (q) If all parties agree, in lieu of a transcript of the evidence and proceedings in the  
390       lower judicatory, they may file in the lower judicatory a stipulation of the case  
391       showing how the question under review arose and was decided with a statement of  
392       facts. In such cases, the parties shall provide sufficient information in the stipulation  
393       and statement of facts to enable the reviewing court to conduct a review. The lower

394 judicatory must approve such stipulation and statement of facts prior to its  
395 transmission to the reviewing court as part of the record.<sup>76</sup>

396 5-3-15.<sup>77</sup>

397 (a) Upon being served with a copy of the petition for review and unless otherwise  
398 ordered by the reviewing court, the clerk of the lower judicatory shall retain the  
399 original of the corresponding record and transmit a true copy of the record to the  
400 reviewing court within 30 days after the copy of the petition for review is served on  
401 the clerk of the lower judicatory.<sup>78</sup>

402 (b) If known or reasonably believed to be the case, the clerk in the lower judicatory  
403 shall notify the reviewing court if a petitioner in a criminal case is confined in jail or  
404 otherwise incarcerated at the time the record is transmitted from the lower judicatory.  
405 Such notice shall accompany the record transmitted from the lower judicatory.<sup>79</sup>

406 (c) If no record is available for transmission to the reviewing court, the clerk of the  
407 lower judicatory shall notify the lower judicatory accordingly so that further action  
408 may be taken pursuant to this chapter.

409 (d) If the clerk of the lower judicatory does not transmit the record to the reviewing  
410 court within 30 days after being served with a copy of the petition for review, the  
411 petitioner shall notify the reviewing court, which shall order the clerk of the lower  
412 judicatory to promptly transmit the record or state the reason for the delay.

413 5-3-16.

414 (a) The payment of all costs accrued in the lower judicatory shall not be required to  
415 file a petition for review under this chapter.<sup>80</sup>

416 (b) Unless otherwise prohibited by law,<sup>81</sup> no petition for review shall be heard in the  
417 reviewing court unless the petitioner:

418 (1) Pays all unpaid costs owed to the lower judicatory within 30 days after  
419 receiving notice of such costs; or  
420 (2) Files an affidavit of indigence with the reviewing court stating that the  
421 petitioner is unable to pay the costs owed to the lower judicatory because of  
422 indigence.

423 (c) No appeal shall be dismissed by the reviewing court because of nonpayment of  
424 the costs owed to the lower judicatory unless the petitioner has been ordered by the  
425 reviewing court to pay such costs and has failed to comply with the reviewing court's  
426 order.

427 (d) An executor, administrator of an estate, or other trustee may file a petition for  
428 review without paying costs as required by this Code section and the giving of a

429 bond and security under Code Section 5-3-17 when defending an action in such  
430 capacity or when solely defending an estate's title; but if a judgment is obtained  
431 against an executor, administrator, or other trustee and not the assets of the estate,  
432 then the executor, administrator of an estate, or other trustee shall pay such costs as  
433 required by this Code section and give security if required under Code Section 5-3-  
434 17.<sup>82</sup>

435 (e) Unless the petitioner in a civil case files an affidavit of indigence with the  
436 reviewing court stating that the petitioner is unable to pay the costs owed to the lower  
437 judicatory because of indigence, the petitioner in a civil case shall obtain and file  
438 with the reviewing court a certificate of payment of costs from the lower judicatory  
439 that shall certify that the petitioner has paid all costs owed to the lower judicatory.<sup>83</sup>  
440 Such certificate shall be:

- 441 (1) Filed in the reviewing court within five days after issuance by the lower  
442 judicatory; and  
443 (2) Signed by a judge, clerk, official, member, or other designated representative  
444 of the lower judicatory.

445 5-3-17.<sup>84</sup>  
446 (a) Except as otherwise provided by law,<sup>85</sup> the filing of a petition for review under  
447 this chapter shall act as supersedeas and shall suspend but not vacate a final judgment  
448 of a lower judicatory.<sup>86</sup>

449 (b) Except as provided in subsection (c) of this Code section, a supersedeas bond  
450 need not be given by a petitioner under this chapter.<sup>87</sup>

451 (c) Except as provided in subsection (d) of Code Section 5-3-16 or otherwise  
452 prohibited by law,<sup>88</sup> the reviewing court may require that a supersedeas bond be  
453 given with good security while a petition for review is under review.

454 (d) If a petitioner fails to give a bond when a bond is required, the supersedeas  
455 provided for in subsection (a) of this Code section shall cease unless the petitioner  
456 files with the reviewing court an affidavit stating that because of indigence the  
457 petitioner is unable to give a bond.<sup>89</sup>

458 (e) Notwithstanding any other provision of law, a bond set pursuant to this chapter  
459 may not exceed the total amount of damages, fines, fees, penalties, and surcharges  
460 imposed by the lower judicatory in the case under review.<sup>90</sup>

461 (f) Bonds given pursuant to this chapter are subject to the following requirements:

- 462 (1) If a person has been convicted of any criminal or quasi-criminal offense or  
463 a violation of any ordinance, bond shall be payable to the state unless such  
464 conviction is in a municipal court, in which case it shall be payable to the

465 municipality under which such court exists. This paragraph shall not apply to  
466 constitutional city courts or state courts.<sup>91</sup>

467 (2) In civil cases, the petitioner shall make a bond payable to the respondent.

468 (3) The petitioner must agree under oath to personally appear and abide by the  
469 final judgment, decision, order, or sentence in the case.

470 (4) If a secured bond is required, the person providing security shall swear under  
471 oath that he or she can fulfill the bond obligation.<sup>92</sup>

472 (5) The giving of a bond shall be consistent with the Constitution of the United  
473 States and the laws and the Constitution of this state, including, but not limited  
474 to, Code Section 17-6-1.<sup>93</sup>

475 (g) The bond may be forfeited in the same manner as any other bond in any court  
476 having jurisdiction, except that a bond payable to a municipality may be forfeited as  
477 prescribed in a municipal ordinance of such municipality.

478 (h) In criminal cases where a bond is required under subsection (c) of this Code  
479 section, the lower judiciary shall order that the petitioner be released from custody  
480 upon the giving of a bond by the petitioner.

481 (i) The supersedeas provided for in this Code section shall suspend the final  
482 judgment of the lower judiciary until the petition for review is decided or dismissed  
483 by the reviewing court or by an appellate court upon appeal, provided that the  
484 petitioner applies for and procures the necessary writs for reviewing the decision  
485 complained of within the time prescribed.

486 (j) If a petition for review is filed by a petitioner's attorney, the petitioner's attorney  
487 shall be authorized to sign the name of the petitioner to the supersedeas bond. In  
488 such cases, the petitioner shall be bound by the supersedeas bond as though the  
489 petitioner had personally signed it.<sup>94</sup>

490 (k) An action may be brought on the bond given under this chapter in any court  
491 having jurisdiction.

492 (l) A valid bond may replace or be amended to replace a void bond or no bond at all  
493 at any time under this Code section.<sup>95</sup>

494 (m) A petitioner's surety, if any, shall be bound by the judgment in a petition for  
495 review. A surety compelled to pay off a debt or damages for which judgment is  
496 entered under this chapter shall only have recourse against the surety's principal.<sup>96</sup>

497 (n) When several partners or joint contractors bring or defend a claim, any one of the  
498 partners or joint contractors may file a petition for review in the name of the firm or  
499 joint contractors and sign the name of the firm or joint contractors to a bond if a bond  
500 is required by the reviewing court. Such petition for review and bond shall be

501        binding on the firm and the joint contractors as though they had signed it  
502        themselves.<sup>97</sup>

503        5-3-18.<sup>98</sup>

504        (a) After a petition for review is reviewed under this chapter, the reviewing court  
505        shall enter a judgment, order a petition for review be dismissed, or remand a petition  
506        for review back to the lower judiciary with instructions.

507        (b) The reviewing court shall include the following in any final decision issued  
508        pursuant to this chapter:

509            (1) If entering a judgment, a written judgment affirming, reversing, or vacating  
510            the final judgment of the lower judiciary.

511            (2) If remanded, instructions to the lower judiciary for further proceedings.

512        (c) The clerk of the reviewing court shall serve a copy of the reviewing court's final  
513        decision regarding a petition for review on the clerk of the lower judiciary and all  
514        parties named in the petition for review within five days after the date such decision  
515        was rendered. The clerk of the lower judiciary shall promptly notify each judge,  
516        official, or member of the lower judiciary who rendered the final judgment  
517        appealed of any final decision served on the clerk of the lower judiciary. If the  
518        lower judiciary does not have a clerk, then the clerk of the reviewing court shall  
519        serve a copy of the reviewing court's final decision on each judge, official, or  
520        member of the lower judiciary who rendered the final judgment appealed.

521        (d) A final decision by the reviewing court under this chapter may be appealed to the  
522        appropriate appellate court as prescribed by law.

523        5-3-19.<sup>99</sup>

524        (a) If a petition for review is dismissed or withdrawn under this chapter, the rights  
525        of all parties shall be the same as if no appeal had been filed.<sup>100</sup> Notwithstanding  
526        any other provision of law, the dismissal or withdrawal of a petition for review under  
527        this chapter shall:

528            (1) Dismiss the petition for review;

529            (2) Not dismiss the petitioner's underlying case from the lower judiciary or  
530            vacate the final judgment of the lower judiciary; and

531            (3) Reinstate the final judgment of the lower judiciary as if the petition for  
532            review had not been filed.

533        (b) This Code section shall apply to all cases appealed under this chapter regardless  
534        of the standard of review applied under Code Section 5-3-5.

535 5-3-20.<sup>101</sup>

536       (a) Reasonable and necessary attorney's fees and expenses of litigation may be  
537       assessed for frivolous actions and defenses in a petition for review as provided in  
538       Code Section 9-15-14, except that such award shall not exceed 20 percent of the  
539       principal sum that the jury or the reviewing court otherwise finds due to the party  
540       receiving such award.

541       (b) This Code section shall apply only to civil cases where a petition for review  
542       results in a judgment for a sum of money.<sup>102</sup>

543                  5-3-21.

(a) If a petition for review is sustained and a final decision regarding the case is made by the reviewing court, the petitioner may have judgment entered for the sum recovered by the petitioner in the lower judiciary, the costs paid to obtain the petition for review, and the costs in the reviewing court.<sup>103</sup>

548 (b) If a petition for review is returned to the lower judicatory for a new hearing, the  
549 petitioner shall have judgment entered for the costs in the reviewing court only,  
550 leaving the costs paid to obtain the petition for review to be awarded upon the final  
551 judgment of the lower judicatory after the new hearing.<sup>104</sup>

552 (c) If a petition for review is dismissed and a final decision regarding the case is  
553 made by the reviewing court, the respondent in a petition for review may have  
554 judgment entered in the reviewing court against the petitioner and the petitioner's  
555 security for the sum recovered by the respondent, together with the costs in the  
556 reviewing court.<sup>105</sup>

557       (d) If a petition for review is returned to the lower judicatory and the lower judicatory  
558       decides the case in favor of the respondent, then the security on the petition for  
559       review bond shall be included in the lower judicatory's final judgment.”<sup>106</sup>

## SECTION 2.

561 Said Title is further amended by repealing in its entirety Chapter 4, relating to certiorari  
562 to superior court, and designating said Chapter as Reserved.

### SECTION 3.

566 Code Section 3-2-35 of the Official Code of Georgia Annotated, relating to seizure of  
567 contraband by commissioner and agents, proceedings upon seizure, hearing on  
568 entitlement to seized items, appeals, and disposition of items upon which taxes have been  
569 paid, is amended by revising subsection (e) as follows:

570 “(a) The commissioner and his agents shall seize and take possession of any  
571 contraband found in the possession of any person in violation of this title.

572 (b) Upon seizure, the commissioner or his agent shall give a receipt to the person  
573 from whom the contraband property was seized, if known, identifying the property  
574 seized and indicating from whom seized and the place of seizure.

575 (c) A copy of the receipt shall be:

576 (1) Filed in the office of the commissioner and shall be a public record open to  
577 public inspection; and

578 (2) Posted at the courthouse of the county in which the contraband was seized.

579 (d) Any person desiring to make claim to the contraband property shall file a claim  
580 with the commissioner at his office in Atlanta within ten days from the day of  
581 seizure. The commissioner, within 30 days of receipt of any such claim, shall afford  
582 the claimant a hearing in which to show his entitlement to the seized items. The  
583 burden of proof at such hearing shall be upon the claimant to establish his claim to  
584 the items seized and to show compliance with or justification for noncompliance  
585 with this Code section. The commissioner shall enter a written order granting or  
586 denying the claim within 30 days from the date of the hearing.

587 (e) An appeal from the commissioner’s order may be taken to the Superior Court of  
588 Fulton County by filing with the commissioner, within 15 days from the date of the  
589 decision, a notice of appeal ~~to~~copy of a petition for review filed in the Superior Court  
590 of Fulton County. The proceedings on the petition for review shall be governed by  
591 Chapter 3 of Title 5 except as otherwise expressed in this Code section. The appeal  
592 shall be based upon the record made before the commissioner; ~~and the~~  
593 ~~commissioner, upon the filing of a notice of appeal,~~ The commissioner shall transmit  
594 the record and appropriate documents to the superior court within 30 days ~~from after~~  
595 the date ~~of the filing of notice of appeal~~petition for review is received. The superior  
596 court shall review the record for errors of law, violation of constitutional or statutory  
597 provisions, violation of the statutory authority of the agency, lawfulness of the  
598 procedure, lack of any evidence to support the decision, and arbitrariness and abuse  
599 of discretion. However, the court shall not substitute its judgment for that of the  
600 hearing officer as to the weight of evidence on questions of fact.

601 (f) All alcoholic beverages upon which the taxes have been paid to either this state  
602 or any other state shall be disposed of as follows:

- 603                     (1) In the case of malt beverage, the seized goods shall be destroyed by the  
604                     commissioner or his authorized agent;
- 605                     (2) In the case of wine, the seized goods shall be sold by the commissioner at  
606                     public sale, except that, where seized wine is determined by the commissioner  
607                     to be unfit for human consumption, it shall be destroyed;
- 608                     (3) In the case of distilled spirits, the seized goods shall be sold by the  
609                     commissioner at public sale, except that, where seized distilled spirits are  
610                     determined by the commissioner to be unfit for human consumption, the  
611                     distilled spirits shall be destroyed.
- 612                     (g) This Code section shall not apply to unlawfully manufactured alcoholic  
613                     beverages."

614                     **SECTION 4.**

615                     Code Section 4-8-23 of the Official Code of Georgia Annotated, relating to investigations  
616                     by dog control officer, notice to owner, hearings, determinations by hearing authority,  
617                     and judicial review, is amended by revising subsection (f), as follows:

- 618                     "(a) For purposes of this Code section, the term:  
619                         (1) "Animal shelter" shall have the same meaning as set forth in Code Section  
620                         4-14-2.  
621                         (2) "Authority" means an animal control board or local board of health, as  
622                         determined by the governing authority of a local government.  
623                         (3) "Mail" means to send by certified mail or statutory overnight delivery to the  
624                         recipient's last known address.
- 625                     (b) Upon receiving a report of a dog believed to be subject to classification as a  
626                     dangerous dog or vicious dog within a dog control officer's jurisdiction, the dog  
627                     control officer shall make such investigations as necessary to determine whether  
628                     such dog is subject to classification as a dangerous dog or vicious dog.
- 629                     (c) When a dog control officer determines that a dog is subject to classification as a  
630                     dangerous dog or vicious dog, the dog control officer shall mail a dated notice to the  
631                     dog's owner within 72 hours. Such notice shall include a summary of the dog control  
632                     officer's determination and shall state that the owner has a right to request a hearing  
633                     from the authority on the dog control officer's determination within seven days after  
634                     the date shown on the notice; provided, however, that if an authority has not been  
635                     established for the jurisdiction, the owner shall be informed of the right to request a  
636                     hearing from the probate court for such jurisdiction where the dog was found or  
637                     confiscated within seven days after the date shown on the notice. The notice shall  
638                     provide a form for requesting the hearing and shall state that if a hearing is not

639 requested within the allotted time, the dog control officer's determination shall  
640 become effective for all purposes under this article. If an owner cannot be located  
641 within ten days of a dog control officer's determination that a dog is subject to  
642 classification as a dangerous dog or vicious dog, such dog may be released to an  
643 animal shelter or humanely euthanized, as determined by the dog control officer.

644 (d) When a hearing is requested by a dog owner in accordance with subsection (c)  
645 of this Code section, such hearing shall be scheduled within 30 days after the request  
646 is received; provided, however, that such hearing may be continued by the authority  
647 or probate court for good cause shown. At least ten days prior to the hearing, the  
648 authority or probate court conducting the hearing shall mail to the dog owner written  
649 notice of the date, time, and place of the hearing. At the hearing, the dog owner shall  
650 be given the opportunity to testify and present evidence and the authority or probate  
651 court conducting the hearing shall receive other evidence and testimony as may be  
652 reasonably necessary to sustain, modify, or overrule the dog control officer's  
653 determination.

654 (e) Within ten days after the hearing, the authority or probate court which conducted  
655 the hearing shall mail written notice to the dog owner of its determination on the  
656 matter. If such determination is that the dog is a dangerous dog or a vicious dog, the  
657 notice of classification shall specify the date upon which that determination shall be  
658 effective. If the determination is that the dog is to be euthanized pursuant to Code  
659 Section 4-8-26, the notice shall specify the date by which the euthanasia shall occur.

660 (f) Judicial review of the authority's final decision may be had in accordance with  
661 Code Section 15-9-30.9. Judicial review of a probate court's final decision shall be  
662 in accordance with Code Section 5-3-25-3-4 and costs shall be paid as provided in  
663 Code Section 5-3-225-3-16."

## 664 SECTION 5.

665 Code Section 10-1-787 of the Official Code of Georgia Annotated, relating to finality of  
666 arbitrator's decision, appeals by manufacturers, and time for compliance with arbitrator's  
667 decision, is amended by revising subsection (a) as follows:

668 "(a) The decision of the arbitrator or arbitrators is final unless a party to the  
669 arbitration, within 30 days of entry of the decision, appeals the decision to the  
670 superior court. A party who appeals a decision shall follow the procedures set forth  
671 in Article 2 of Chapter 3 of Title 5, and any appeal shall be de novo; however, the  
672 decision of the arbitrator or arbitrators shall be admissible in evidence.

673 (b) If the manufacturer appeals, the court may require the manufacturer to post  
674 security for the consumer's financial loss due to the passage of time for review.

675                             (c) If the manufacturer appeals and the consumer prevails, recovery, in addition to  
676                             the arbitrator's award, shall include all charges incurred by the consumer during the  
677                             pendency of, or as a result of, the appeal, including, but not limited to, continuing  
678                             collateral and incidental costs, technical or expert witness fees, attorney's fees, and  
679                             court costs.  
680                             (d) A manufacturer which does not appeal a decision in favor of a consumer must  
681                             fully comply with the decision within 40 days of entry thereof. If a manufacturer  
682                             does not fully comply within the 40 day time period, the Attorney General may issue  
683                             an order imposing a civil penalty of up to \$1,000.00 per day for each day that the  
684                             manufacturer remains out of compliance. The provisions of Code Sections 10-1-398  
685                             and 10-1-398.1 shall apply in connection with the imposition of a civil penalty under  
686                             this subsection. It shall be an affirmative defense to the imposition of a civil penalty  
687                             under this subsection that a delay or failure to comply was beyond the  
688                             manufacturer's control or that a delay was acceptable to the consumer."

## SECTION 6.

689  
690                             Code Section 10-14-22 of the Official Code of Georgia Annotated, relating to judicial  
691                             appeal of order of Secretary of State, is amended by revising subsections (a) and (b) as  
692                             follows:

693                             (a) An appeal may be taken from any order of the Secretary of State resulting from  
694                             a hearing held in accordance with the provisions of Code Section 10-14-23 by any  
695                             person adversely affected thereby to the Superior Court of Fulton County, Georgia,  
696                             by serving on the Secretary of State, within 20 days after the date of entry of such  
697                             order, a ~~written notice of appeal~~copy of a petition for review filed in the Superior  
698                             Court of Fulton County, and signed by the ~~appellant~~petitioner, stating:

699                                 (1) The order from which the appeal is taken;  
700                                 (2) The ground upon which a reversal or modification of such order is sought;  
701                                 and  
702                                 (3) A demand for a certified transcript of the record of such order.

703                             The proceedings on the petition for review shall be governed by Chapter 3 of Title 5  
704                             except as otherwise expressed in this Code section.

705                             (b) Upon receipt of such ~~notice of appeal~~petition for review, the Secretary of State  
706                             shall, within ten days thereafter, make, certify, and deliver to the ~~appellant~~clerk of  
707                             the Superior Court of Fulton County a transcript of the record of the order from  
708                             which the appeal is taken, provided that the ~~appellant~~petitioner shall pay the  
709                             reasonable costs of such transcript. ~~The appellant shall, within five days after receipt~~  
710                             of such transcript, file such transcript and a copy of the notice of appeal with the

711 clerk of the court. Said notice of appeal, petition for review and transcript of the record  
712 shall constitute appellant's complaint. Said complaint shall thereupon be entered on  
713 the trial calendar of the court in accordance with the court's normal procedures.

714 (c) If the order of the Secretary of State shall be reversed, the court shall by its  
715 mandate specifically direct the Secretary of State as to his or her further action in the  
716 matter, including the making and entering of any order or orders in connection  
717 therewith and the conditions, limitations, or restrictions to be contained therein."

## SECTION 7.

719 Code Section 12-3-194.1 of the Official Code of Georgia Annotated, relating to police  
720 and legislative powers of association, appointment of peace officers, jurisdiction and  
721 venue of park offenses, and sale of confederate memorabilia, is amended by revising  
722 subsection (c) as follows:

723 "a)

(1) The association is empowered to exercise such of the police powers of the state as may be necessary to maintain peace and order and to enforce any and all user and personal conduct restrictions upon the properties and facilities and the persons under its jurisdiction to the extent that such is lawful under the laws of the nation and the state.

(2) In addition to the powers provided in paragraph (1) of this subsection, the association is empowered to exercise the police powers of the state in an area extending not more than 500 yards from the park boundaries adjacent to the entrances and exits, other than entrances or exits adjacent to the corporate limits of a municipality, which are used regularly by patrons attending functions at Stone Mountain Park and in an area extending not more than 500 yards from the tennis center.

(b) The association shall have legislative power to adopt reasonable ordinances relating to the property, affairs, and administration of Stone Mountain Park for which no provision has been made by general law and which are not inconsistent with the general laws or the Constitution of this state. The association is further authorized to adopt ordinances adopting by reference any or all of the provisions of Chapter 6 of Title 40 in accordance with Code Section 40-6-372. Within the limits of Stone Mountain Park and within the area described in paragraph (2) of subsection (a) of this Code section, the association is authorized to appoint peace officers, who are authorized and empowered to serve and execute warrants and to make arrests for violation of ordinances adopted by the association. Within the limits of Stone Mountain Park and within the area described in paragraph (2) of subsection (a) of

747 this Code section, such peace officers shall have the same authority, powers, and  
748 privileges regarding enforcement of laws as peace officers employed by county and  
749 municipal police departments of this state. Prosecutions for violations of the  
750 ordinances of the association shall be upon citation or upon accusation as provided  
751 in Code Sections 15-10-62 and 15-10-63. The association may provide that  
752 ordinance violations may be tried upon citations with or without a prosecuting  
753 attorney as well as upon accusations in the manner prescribed in Code Section 15-  
754 10-63.

755 (c) For purposes of this Code section, the Magistrate Court of DeKalb County shall  
756 have jurisdiction and authority to hear and try those offenses occurring within the  
757 limits of Stone Mountain Park which violate the ordinances of the association and to  
758 punish violations of such ordinances, all in the manner and to the extent prescribed  
759 in Article 4 of Chapter 10 of Title 15. The State Court of DeKalb County shall have  
760 jurisdiction and authority to hear and try all cases removed from the Magistrate Court  
761 of DeKalb County for jury trial by any defendant charged with one or more  
762 violations of the ordinances of the association. The Superior Court of DeKalb  
763 County shall have jurisdiction to review all convictions by ~~certiorari~~petition for  
764 review to the superior court. The proceedings on the petition for review shall be  
765 governed by Chapter 3 of Title 5 except as otherwise expressed in this Code section.

766 The jurisdiction and authority of the courts of DeKalb County provided for in this  
767 Code section shall be in addition to and not in limitation of the jurisdiction and  
768 authority of such courts as may be now or hereafter provided.

769 (d) The Stone Mountain Memorial Association shall continue the practice of  
770 stocking, restocking, and sales of confederate memorabilia.”

## SECTION 8.

771 Said title is further Code Section 12-3-236.1 of the Official Code of Georgia Annotated,  
772 relating to adoption and enforcement of ordinances and resolutions, is amended by  
773 revising subsection (b) as follows:

774 “(a) The authority shall have legislative power to adopt reasonable ordinances and  
775 resolutions relating to the property, affairs, and government of Jekyll Island,  
776 including, without limitation, ordinances and resolutions adopting by reference any  
777 or all of the provisions of Chapter 6 of Title 40 in accordance with Code Section 40-  
778 6-372, for which no provision has been made by general law and which are not  
779 inconsistent with the general laws and Constitution of Georgia. Such ordinances and  
780 resolutions shall be enforced by the authority and members of the Uniform Division  
781 of the Department of Public Safety. Members of the Uniform Division of the

783 Department of Public Safety are authorized to serve and execute warrants and to  
784 make arrests for violation of such ordinances and resolutions and shall, upon and  
785 within the limits of Jekyll Island, have the same authority, powers, and privileges  
786 regarding enforcement of law as the several sheriffs of this state, which authority,  
787 powers, and privileges shall be in addition to and not in limitation of all other powers  
788 of members of the Uniform Division of the Department of Public Safety as provided  
789 by law. Prosecutions for violations of the ordinances of the authority shall be upon  
790 citation or upon accusation as provided in Code Sections 15-10-62 and 15-10-63.  
791 The authority may provide that ordinance violations may be tried upon citations with  
792 or without a prosecuting attorney as well as upon accusations in the manner  
793 prescribed in Code Section 15-10-63.

794 (b) For purposes of this Code section, the Magistrate Court of Glynn County shall  
795 have jurisdiction and authority to hear and try those cases occurring within the limits  
796 of Jekyll Island in which a person is charged with violating an ordinance of the  
797 authority and to punish violations of such ordinances, all in the manner and to the  
798 extent prescribed in Article 4 of Chapter 10 of Title 15. The State Court of Glynn  
799 County shall have jurisdiction and authority to hear and try all cases removed from  
800 the Magistrate Court of Glynn County for jury trial by any defendant charged with  
801 one or more violations of the ordinances of the authority. The Superior Court of  
802 Glynn County shall have jurisdiction to review all convictions by ~~court~~certioraripetition  
803 for review to the superior court. The proceedings on the petition for review shall be  
804 governed by Chapter 3 of Title 5 except as otherwise expressed in this Code section.  
805 The jurisdiction and authority of the courts of Glynn County provided for in this  
806 Code section shall be in addition to and not in limitation of the jurisdiction and  
807 authority of such courts as may be now or hereafter provided."

## 808 SECTION 9.

809 Code Section 15-6-9 of the Official Code of Georgia Annotated, relating to authority of  
810 judges generally, is amended by revising paragraph (1) as follows:

811 "The judges of the superior courts have authority:

- 812 (1) To grant for their respective circuits ~~writs of certiorari~~petitions for review,  
813 supersedeas, quo warranto, mandamus, habeas corpus, and bail in actions ex  
814 delicto;
- 815 (2) To entertain bills quia timet;
- 816 (3) To grant writs of injunction, prohibition, and ne exeat;

817                     (4) To grant all other writs, original or remedial, either legal or equitable, which  
818                     may be necessary to the exercise of their jurisdiction and which are not expressly  
819                     prohibited;  
820                     (5) To hear and determine questions arising upon:  
821                         (A) Writs of habeas corpus or bail, when properly brought before them;  
822                         (B) All motions to grant, revive, or dissolve injunctions; and  
823                         (C) The giving of new security or the lessening of the amount of bail;  
824                     (6) To perform any and all other acts required of them at chambers;  
825                     (7) To hear and determine all motions to dismiss petitions for equitable relief,  
826                     and all motions to revoke or change orders appointing receivers, after ten days'  
827                     written notice has been given to the opposite party or his attorney by either party  
828                     by service with a copy of such motion to dismiss or to revoke or change such  
829                     order; and  
830                     (8) To administer oaths and to exercise all other powers necessarily appertaining  
831                     to their jurisdiction or which may be granted them by law.”

## SECTION 10.

832                     Code Section 15-9-120 of the Official Code of Georgia Annotated, relating to definitions,  
833                     is amended as follows:

834                     “As used in this article, the term:  
835                         (1) “Civil case” means those civil matters:  
836                             (A) Over which the judge of the probate court exercises judicial powers;  
837                             (B) Within the original, exclusive, or general subject matter jurisdiction of  
838                             the probate court; and  
839                             (C) Which, if not for this article and Code Section 5-6-33, could be appealed  
840                             to superior court for a de novo investigation with the right to a jury trial  
841                             under Code Sections 5-3-25-3-4 and 5-3-295-3-5.  
842                         (2) “Probate court” means a probate court of a county having a population of  
843                             more than 90,000 persons according to the United States decennial census of  
844                             2010 or any future such census in which the judge thereof has been admitted to  
845                             the practice of law for at least seven years.”

## SECTION 11.

846                     Code Section 15-10-41 of the Official Code of Georgia Annotated, relating to no jury  
847                     trials and appeal, is amended by revising subsection (b) as follows:

848                         “(a) There shall be no jury trials in the magistrate court.  
849                         (b)

852                   (1) Except as otherwise provided in this subsection, appeals may be had from  
853                   judgments returned in the magistrate court to the state court of the county or to  
854                   the superior court of the county and the same provisions now provided for by  
855                   general law for appeals contained in Article 2 of Chapter 3 of Title 5 shall be  
856                   applicable to appeals from the magistrate court, the same to be a de novo appeal.  
857                   The provisions of ~~said Article 2 of~~ Chapter 3 of Title 5 shall also apply to appeals  
858                   to state court.

859                   (2) No appeal shall lie from a default judgment or from a dismissal for want of  
860                   prosecution after a nonappearance of a plaintiff for trial. Any voluntary  
861                   dismissal by the plaintiff or by order of the court for want of prosecution shall  
862                   be without prejudice except that the filing of a second such dismissal shall  
863                   operate as an adjudication upon the merits. Review, including review of a denial  
864                   of a postjudgment motion to vacate a judgment, shall be by ~~certiorari~~petition for  
865                   review to the state court of that county or to the superior court of that county.”

## SECTION 12.

866  
867                   Code Section 15-10-65 of the Official Code of Georgia Annotated, relating to certiorari  
868                   to superior court, is amended as follows:

869                   “15-10-65.

870                   Review of convictions shall be by ~~certiorari~~petition for review to the superior court  
871                   as provided for in Chapter 3 of Title 5.”

## SECTION 13.

872  
873                   Code Section 15-14-7 of the Official Code of Georgia Annotated, relating to destruction  
874                   of notes, how authorized, petition, grounds, notice, and order, is amended by revising  
875                   subsection (c) as follows:

876                   “(a) Upon petition, the judge of a superior court, city court, or any other court, the  
877                   judgments of which are subject to review by the Supreme Court or the Court of  
878                   Appeals, may authorize destruction of a court reporter’s notes taken of the evidence  
879                   and other proceedings in civil actions in that court, subject to this Code section.

880                   (b) The court reporter or other person in whose custody the notes are kept shall file  
881                   a written petition in the court in which the trial was conducted requesting an order  
882                   authorizing destruction of notes taken during the trial. The petition shall specify the  
883                   name of the court reporter, the name of the person in whose custody the notes are  
884                   kept if other than the court reporter, the place at which the notes are kept, and the  
885                   names and addresses of the parties to the action or, if the address of a party is  
886                   unknown, the name and address of counsel to that party if such is known.

- 887 (c) The petition shall certify one of the following:
- 888 (1) That the action is a civil action in which no ~~notice of appeal~~petition for  
889 review has been filed, that the court reporter has not been requested or ordered  
890 to transcribe the evidence and other proceedings, and that a period of not less  
891 than 37 months has elapsed since the last date upon which a ~~notice of appeal~~  
892 petition for review in the action could have been filed; or
- 893 (2) That the action is one in which the court reporter has been requested or  
894 ordered pursuant to law to transcribe the evidence and other proceedings, that  
895 the record has been transcribed, and that a period of not less than 12 months has  
896 elapsed from the date upon which the remittitur from the appeal has been  
897 docketed in the trial court.
- 898 (d) When a petition for the destruction of notes is filed pursuant to this Code section,  
899 the court shall cause due notice of the petition and the grounds therefor to be given  
900 to each party to the action or, if the address of a party is unknown, to the counsel to  
901 the party if such is known.
- 902 (e) Not less than 30 days after receipt of a petition pursuant to this Code section, the  
903 court shall authorize destruction of the specified notes unless such destruction, in the  
904 court's judgment, would impair the cause of justice or fairness in the action."

#### 905 SECTION 14.

906 Code Section 15-21A-6 of the Official Code of Georgia Annotated, relating to additional  
907 filing fees, application fee for indigent defense services, and remittance of funds, is  
908 amended by revising subsection (a) as follows:

909 "(a) In addition to all other legal costs, there shall be charged to the filing party and  
910 collected by the clerk an additional filing fee of \$15.00 in each civil action or case  
911 filed in the superior, state, recorder's, mayor's, and magistrate courts except that  
912 municipalities, counties, and political subdivisions shall be exempt from such fee.  
913 Without limiting the generality of the foregoing, such fee shall apply to all adoptions,  
914 ~~certiorari~~petitions for review, trade name registrations, applications for change of  
915 name, and all other proceedings of a civil nature. Any matter which is docketed  
916 upon the official dockets of the enumerated courts and to which a number is assigned  
917 shall be subject to such fee, whether such matter is contested or not.

918 (b) (1) As used in this subsection, the term "civil action" means:

919 (A) With regard to decedents' estates, the following proceedings: petition  
920 for letters of administration; petition to probate a will in solemn form;  
921 petition for an order declaring no administration necessary; petition to

922 probate a will in solemn form and for letters of administration with will  
923 annexed; and petition for year's support;

924 (B) With regard to a minor guardianship matter as set forth in paragraph (1)  
925 of subsection (f) of Code Section 15-9-60, the proceeding by which the  
926 jurisdiction of the probate court is first invoked;

927 (C) With regard to an adult guardianship matter as set forth in paragraph  
928 (1) of subsection (g) of Code Section 15-9-60, the proceeding by which the  
929 jurisdiction of the probate court is first invoked; and

930 (D) An application for writ of habeas corpus.

931 (2) In addition to all other legal costs, there shall be charged to the filing party  
932 and collected by the clerk an additional fee of \$15.00 in each civil action filed  
933 in the probate court. For the purposes of the imposition of the civil filing fee  
934 required by this subsection, the probate court shall collect the civil filing fee on  
935 each proceeding listed in subparagraph (A) of paragraph (1) of this subsection  
936 involving a decedent but once only in a guardianship matter involving the same  
937 ward or an application for writ of habeas corpus involving the same applicant.

938 (c) Any person who applies for or receives legal defense services under Chapter 12  
939 of Title 17 shall pay the entity providing such services a single fee of \$50.00 for the  
940 application for, receipt of, or application for and receipt of such services. The  
941 application fee shall not be imposed if the payment of the fee is waived by the court.  
942 The court shall waive the fee if it finds that the applicant is unable to pay the fee or  
943 that measurable hardship will result if the fee is charged. If the application fee  
944 required by this subsection has not been paid prior to the time the defendant is  
945 sentenced, the court shall impose such fee as a condition of probation.

946 (d) Each clerk of court, each indigent defense program, or any other officer or agent  
947 of any court receiving any funds subject to this Code section shall collect the fees  
948 provided for in subsection (c) of this Code section and, if the governing authority  
949 has a procedure to verify the applicant's income as set forth in Code Section 17-12-  
950 80, shall pay such moneys over to the entity providing legal defense services under  
951 Chapter 12 of Title 17 by the last day of the month after the month of collection, and  
952 such funds shall not be subject to payment to the authority. If the governing authority  
953 does not have such verification procedure, the moneys shall be paid over to the  
954 authority by the last day of the month after the month of collection, to be deposited  
955 by the authority into the general fund of the state treasury.

956 (e) A public entity other than an entity providing legal defense services under  
957 Chapter 12 of Title 17 may charge, in addition to any other fee or surcharge  
958 authorized by law, a \$50.00 application fee unless such fee is waived by the court

959 for inability to pay or measurable hardship. If the application fee required by this  
960 subsection has not been paid prior to the time the defendant is sentenced, the court  
961 shall impose such fee as a condition of probation. Any such fee shall be retained by  
962 the entity providing such services or used as otherwise provided by law and shall not  
963 be subject to payment to the authority or deposit into the state treasury.

964 (f) For the purposes of this Code section, a county or municipality that provides  
965 indigent defense services or that contracts with a circuit public defender office for  
966 the provision of indigent defense services in courts other than the superior and  
967 juvenile court shall be deemed to be the entity providing the legal defense services  
968 and shall be entitled to impose and collect the application fee authorized by  
969 subsection (e) of this Code section."

## SECTION 15.

970  
971 Code Section 15-21A-6.1 of the Official Code of Georgia Annotated, relating to judicial  
972 operations fund fee and collection and reporting procedure, is amended by revising  
973 subsection (a) as follows:

974 "“(a) In addition to all other legal costs, there shall be charged to the filing party and  
975 collected by the clerk an additional filing fee of \$125.00, to be known as a judicial  
976 operations fund fee, in each civil action or case filed in a superior court except that  
977 the state, including, but not limited to, its departments, agencies, boards, bureaus,  
978 commissions, public corporations, and authorities, municipalities, counties, and  
979 political subdivisions shall be exempt from such fee. Without limiting the generality  
980 of the foregoing, such fee shall apply to all adoptions, ~~ejector~~ or ~~petitions for review~~,  
981 trade name registrations, applications for change of name, and all other proceedings  
982 of a civil nature. Any matter which is docketed upon the official dockets of the  
983 superior court and to which a number is assigned shall be subject to such fee, whether  
984 such matter is contested or not; provided, however, that the judicial operations fund  
985 fee shall not apply to the issuance of certificates of appointment and reappointment  
986 of notaries public.

987 (b) Each superior court clerk shall collect the fees provided in this Code section and  
988 the moneys shall be paid over to the authority by the last day of the month after the  
989 month of collection, to be deposited by the authority into the general fund of the state  
990 treasury.

991 (c) The authority shall, on a quarterly basis, make a report and accounting of all  
992 funds collected pursuant to this Code section and shall submit such report and  
993 accounting to the Office of Planning and Budget, the House Budget and Research

994 Office, and the Senate Budget and Evaluation Office no later than 60 days after the  
995 last day of the preceding quarter.”

996 **SECTION 16.**

997 Code Section 17-6-1 of the Official Code of Georgia Annotated, relating to when  
998 offenses bailable, procedure, schedule of bails, and appeal bonds, is amended by revising  
999 subsection (g) as follows:

1000 “(a) The following offenses are bailable only before a judge of the superior court:

- 1001 (1) Treason;
- 1002 (2) Murder;
- 1003 (3) Rape;
- 1004 (4) Aggravated sodomy;
- 1005 (5) Armed robbery;
- 1006 (5.1) Home invasion in the first degree;
- 1007 (6) Aircraft hijacking and hijacking a motor vehicle in the first degree;
- 1008 (7) Aggravated child molestation;
- 1009 (8) Aggravated sexual battery;
- 1010 (9) Manufacturing, distributing, delivering, dispensing, administering, or selling  
1011 any controlled substance classified under Code Section 16-13-25 as Schedule I  
1012 or under Code Section 16-13-26 as Schedule II;
- 1013 (10) Violating Code Section 16-13-31 or Code Section 16-13-31.1;
- 1014 (11) Kidnapping, arson, aggravated assault, or burglary in any degree if the  
1015 person, at the time of the alleged kidnapping, arson, aggravated assault, or  
1016 burglary in any degree, had previously been convicted of, was on probation or  
1017 parole with respect to, or was on bail for kidnapping, arson, aggravated assault,  
1018 burglary in any degree, or one or more of the offenses listed in paragraphs (1)  
1019 through (10) of this subsection;
- 1020 (12) Aggravated stalking; and
- 1021 (13) Violations of Chapter 15 of Title 16.

1022 (b)

1023 (1) All offenses not included in subsection (a) of this Code section, inclusive of  
1024 offenses that are violations of local ordinances, are bailable by a court of inquiry.  
1025 Except as provided in subsection (g) of this Code section, at no time, either  
1026 before a court of inquiry, when indicted or accused, after a motion for new trial  
1027 is made, or while an appeal is pending, shall any person charged with a  
1028 misdemeanor be refused bail. When determining bail for a person charged with  
1029 a misdemeanor, courts shall not impose excessive bail and shall impose only the

1030 conditions reasonably necessary to ensure such person attends court  
1031 appearances and to protect the safety of any person or the public given the  
1032 circumstances of the alleged offense and the totality of circumstances.

1033 (2) Except as otherwise provided in this chapter:

1034 (A) A person charged with violating Code Section 40-6-391 whose alcohol  
1035 concentration at the time of arrest, as determined by any method authorized  
1036 by law, violates that provided in paragraph (5) of subsection (a) of Code  
1037 Section 40-6-391 may be detained for a period of time up to six hours after  
1038 booking and prior to being released on bail or on recognizance; and

1039 (B) When an arrest is made by a law enforcement officer without a warrant  
1040 upon an act of family violence or a violation of a criminal family violence  
1041 order pursuant to Code Section 17-4-20, the person charged with the  
1042 offense shall not be eligible for bail prior to the arresting officer or some  
1043 other law enforcement officer taking the arrested person before a judicial  
1044 officer pursuant to Code Section 17-4-21.

1045 (3) (A) Notwithstanding any other provision of law, a judge of a court of inquiry  
1046 may, as a condition of bail or other pretrial release of a person who is charged  
1047 with violating Code Section 16-5-90 or 16-5-91, prohibit the defendant from  
1048 entering or remaining present at the victim's school, place of employment, or  
1049 other specified places at times when the victim is present or intentionally  
1050 following such person.

1051 (B) If the evidence shows that the defendant has previously violated the  
1052 conditions of pretrial release or probation or parole which arose out of a  
1053 violation of Code Section 16-5-90 or 16-5-91, the judge of a court of inquiry  
1054 may impose such restrictions on the defendant which may be necessary to  
1055 deter further stalking of the victim, including but not limited to denying bail  
1056 or pretrial release.

1057 (c)

1058 (1) In the event a person is detained in a facility other than a municipal jail for  
1059 an offense which is bailable only before a judge of the superior court, as  
1060 provided in subsection (a) of this Code section, and a hearing is held pursuant  
1061 to Code Section 17-4-26, the presiding judicial officer shall notify the superior  
1062 court in writing within 48 hours that the arrested person is being held without  
1063 bail. If the detained person has not already petitioned for bail as provided in  
1064 subsection (d) of this Code section, the superior court shall notify the district  
1065 attorney and shall set a date for a hearing on the issue of bail within 30 days  
1066 after receipt of such notice.

1067                     (2) In the event a person is detained in a municipal jail for an offense which is  
1068                     bailable only before a judge of the superior court as provided in subsection (a)  
1069                     of this Code section for a period of 30 days, the municipal court shall notify the  
1070                     superior court in writing within 48 hours that the arrested person has been held  
1071                     for such time without bail. If the detained person has not already petitioned for  
1072                     bail as provided in subsection (d) of this Code section, the superior court shall  
1073                     notify the district attorney and set a date for a hearing on the issue of bail within  
1074                     30 days after receipt of such notice.

1075                     (3) Notice sent to the superior court pursuant to paragraph (1) or (2) of this  
1076                     subsection shall include any incident reports and criminal history reports  
1077                     relevant to the detention of such person.

1078                     (d) A person charged with any offense which is bailable only before a judge of the  
1079                     superior court as provided in subsection (a) of this Code section may petition the  
1080                     superior court requesting that such person be released on bail. The court shall notify  
1081                     the district attorney and set a date for a hearing within ten days after receipt of such  
1082                     petition.

1083                     (e) (1) A court shall be authorized to release a person on bail if the court finds that  
1084                     the person:

1085                         (A) Poses no significant risk of fleeing from the jurisdiction of the court or  
1086                         failing to appear in court when required;

1087                         (B) Poses no significant threat or danger to any person, to the community,  
1088                         or to any property in the community;

1089                         (C) Poses no significant risk of committing any felony pending trial; and

1090                         (D) Poses no significant risk of intimidating witnesses or otherwise  
1091                         obstructing the administration of justice.

1092                     (2) When determining bail, as soon as possible, the court shall consider:

1093                         (A) The accused's financial resources and other assets, including whether  
1094                         any such assets are jointly controlled;

1095                         (B) The accused's earnings and other income;

1096                         (C) The accused's financial obligations, including obligations to  
1097                         dependents;

1098                         (D) The purpose of bail; and

1099                         (E) Any other factor the court deems appropriate.

1100                     (3) If the person is charged with a serious violent felony and has already been  
1101                     convicted of a serious violent felony, or of an offense under the laws of any  
1102                     other state or of the United States which offense if committed in this state would  
1103                     be a serious violent felony, there shall be a rebuttable presumption that no

1104 condition or combination of conditions will reasonably assure the appearance of  
1105 the person as required or assure the safety of any other person or the community.  
1106 As used in this subsection, the term “serious violent felony” means a serious  
1107 violent felony as defined in Code Section 17-10-6.1.

1108 (4) A bond set for any offense by an elected judge, an appointed judge filling  
1109 the vacancy of an elected judge, or judge sitting by designation that purports a  
1110 dollar amount shall be executed in the full-face amount of such bond through  
1111 secured means as provided for in Code Section 17-6-4 or 17-6-50 or shall be  
1112 executed by use of property as approved by the sheriff in the county where the  
1113 offense was committed.

1114 (5) Notwithstanding any other provision of law, nothing in this Code section  
1115 shall prohibit a duly sworn sheriff from releasing an inmate from custody in  
1116 cases of medical emergency with the consent of the judge in the county in which  
1117 he or she presides.

1118 (f)

1119 (1) Except as provided in subsection (a) of this Code section or as otherwise  
1120 provided in this subsection, the judge of any court of inquiry may by written  
1121 order establish a schedule of bails and unless otherwise ordered by the judge of  
1122 any court, an accused shall be released from custody upon posting bail as fixed  
1123 in the schedule.

1124 (2) For offenses involving an act of family violence, as defined in Code Section  
1125 19-13-1, bail or other release from custody shall be set by a judge on an  
1126 individual basis and a schedule of bails provided for in paragraph (1) of this  
1127 subsection shall not be utilized; provided, however, that the judge shall include  
1128 a listing of specific conditions which shall include, but not be limited to, having  
1129 no contact of any kind or character with the victim or any member of the  
1130 victim’s family or household, not physically abusing or threatening to physically  
1131 abuse the victim, the immediate enrollment in and participation in domestic  
1132 violence counseling, substance abuse therapy, or other therapeutic  
1133 requirements.

1134 (3) For offenses involving an act of family violence, the judge shall determine  
1135 whether one or more specific conditions shall be used, except that any offense  
1136 involving an act of family violence and serious injury to the victim shall be  
1137 bailable only before a judge when the judge or the arresting officer is of the  
1138 opinion that the danger of further violence to or harassment or intimidation of  
1139 the victim is such as to make it desirable that the consideration of the imposition  
1140 of additional conditions as authorized in this Code section should be made.

1141       Upon setting bail in any case involving family violence, the judge shall give  
1142       particular consideration to the exigencies of the case at hand and shall impose  
1143       any specific conditions as he or she may deem necessary. As used in this Code  
1144       section, the term “serious injury” means bodily harm capable of being perceived  
1145       by a person other than the victim and may include, but is not limited to,  
1146       substantially blackened eyes, substantially swollen lips or other facial or body  
1147       parts, substantial bruises to body parts, fractured bones, or permanent  
1148       disfigurements and wounds inflicted by deadly weapons or any other objects  
1149       which, when used offensively against a person, are capable of causing serious  
1150       bodily injury.

1151       (4) For violations of Code Section 16-15-4, the court shall require increased bail  
1152       and shall include as a condition of bail or pretrial release that the accused shall  
1153       not have contact of any kind or character with any other member or associate of  
1154       a criminal street gang and, in cases involving an alleged victim, that the accused  
1155       shall not have contact of any kind or character with any such victim or any  
1156       member of any such victim’s family or household.

1157       (5) For offenses involving violations of Code Section 40-6-393, bail or other  
1158       release from custody shall be set by a judge on an individual basis and not a  
1159       schedule of bails pursuant to this Code section.

1160       (g) No appeal bond shall be granted to any person who has been convicted of murder,  
1161       rape, aggravated sodomy, armed robbery, home invasion in any degree, aggravated  
1162       child molestation, child molestation, kidnapping, trafficking in cocaine or marijuana,  
1163       aggravated stalking, or aircraft hijacking and who has been sentenced to serve a  
1164       period of incarceration of five years or more. The granting of an appeal bond to a  
1165       person who has been convicted of any other felony offense or of any misdemeanor  
1166       offense involving an act of family violence as defined in Code Section 19-13-1, or  
1167       of any offense delineated as a high and aggravated misdemeanor or of any offense  
1168       set forth in Code Section 40-6-391, shall be in the discretion of the convicting court.  
1169       Appeal bonds shall terminate when the right of appeal terminates, and such bonds  
1170       shall not be effective as to any petition for review or petition or application for writ  
1171       of certiorari unless the court in which the petition for review or petition or application  
1172       for writ of certiorari is filed so specifies.

1173       (h) Except in cases in which life imprisonment or the death penalty may be imposed,  
1174       a judge of the superior court by written order may delegate the authority provided  
1175       for in this Code section to any judge of any court of inquiry within such superior  
1176       court judge's circuit. However, such authority may not be exercised outside the  
1177       county in which said judge of the court of inquiry was appointed or elected. The

1178 written order delegating such authority shall be valid for a period of one year, but  
1179 may be revoked by the superior court judge issuing such order at any time prior to  
1180 the end of that one-year period.  
1181 (i) As used in this Code section, the term "bail" shall include the release of a person  
1182 on an unsecured judicial release, except as limited by Code Section 17-6-12.  
1183 (j) For all persons who have been authorized by law or the court to be released on  
1184 bail, sheriffs and constables shall accept such bail; provided, however, that the  
1185 sureties tendered and offered on the bond are approved by the sheriff of the county  
1186 in which the offense was committed."

## **SECTION 17.**

1187 Code Section 22-3-44 of the Official Code of Georgia Annotated, relating to appeal to  
1188 superior court, is amended as follows:

1189 "22-3-44.

1190 Within 30 days after the award of condemnation is made pursuant to Part 4 of Article  
1191 1 of Chapter 2 of this title or pursuant to Article 2 of Chapter 2 of this title, any party  
1192 may appeal to the superior court of the county in which the public roads or highways  
1193 lie by filing a petition for review with the judge of the probate court of the county a  
1194 ~~written notice of appeal. Within ten days after his receipt of the notice, the judge~~  
1195 ~~shall transmit the notice to the superior court. The trial on such an appeal shall be~~  
1196 ~~de novo. The proceedings on the petition for review shall be governed by Chapter 3~~  
1197 ~~of Title 5.~~"

## **SECTION 18.**

1198 Code Section 31-6-44.1 of the Official Code of Georgia Annotated, relating to judicial  
1199 review, is amended by revising subsection (b) as follows:

1200 "(a) Any party to the initial administrative appeal hearing conducted by the  
1201 appointed appeal panel hearing officer, excluding the department, may seek judicial  
1202 review of the final decision in accordance with the method set forth in Chapter 13 of  
1203 Title 50, the "Georgia Administrative Procedure Act," except as otherwise modified  
1204 by this Code section; provided, however, that in conducting such review, the court  
1205 may reverse or modify the final decision only if substantial rights of the appellant  
1206 have been prejudiced because the procedures followed by the department, the  
1207 hearing officer, or the commissioner or the administrative findings, inferences, and  
1208 conclusions contained in the final decision are:

- 1209 (1) In violation of constitutional or statutory provisions;
- 1210 (2) In excess of the statutory authority of the department;

1213                             (3) Made upon unlawful procedures;

1214                             (4) Affected by other error of law;

1215                             (5) Not supported by substantial evidence, which shall mean that the record does

1216                             not contain such relevant evidence as a reasonable mind might accept as

1217                             adequate to support such findings, inferences, conclusions, or decisions, which

1218                             such evidentiary standard shall be in excess of the "any evidence" standard

1219                             contained in other statutory provisions; or

1220                             (6) Arbitrary or capricious or characterized by abuse of discretion or clearly

1221                             unwarranted exercise of discretion.

1222                             (b) In the event If a party seeks judicial review, the proceedings for such review shall

1223                             be governed by Chapter 3 of Title 5, unless otherwise expressed in this Code section.

1224                             If a party seeks judicial review, the department shall, within 30 days of after being

1225                             served with a copy of the filing of the notice of appeal a petition for review with the

1226                             filed in superior court, transmit certified copies of all documents and papers in its

1227                             file together with a transcript of the testimony taken and its findings of fact and

1228                             decision to the clerk of the superior court to which the case has been appealed. The

1229                             case so appealed may then be brought by either party upon ten days' written notice

1230                             to the other before the superior court for a hearing upon such record, subject to an

1231                             assignment of the case for hearing by the court; provided, however, if the court does

1232                             not hear the case within 120 days of the date of docketing in the superior court, the

1233                             decision of the department shall be considered affirmed by operation of law unless

1234                             a hearing originally scheduled to be heard within the 120 days has been continued to

1235                             a date certain by order of the court. In the event a hearing is held later than 90 days

1236                             after the date of docketing in the superior court because same has been continued to

1237                             a date certain by order of the court, the decision of the department shall be considered

1238                             affirmed by operation of law if no order of the court disposing of the issues on appeal

1239                             has been entered within 30 days after the date of the continued hearing. If a case is

1240                             heard within 120 days from the date of docketing in the superior court, the decision

1241                             of the department shall be considered affirmed by operation of law if no order of the

1242                             court dispositive of the issues on appeal has been entered within 30 days of the date

1243                             of the hearing.

1244                             (c) A party responding to an appeal to the superior court shall be entitled to

1245                             reasonable attorney's fees and costs if such party is the prevailing party of such

1246                             appeal as decided by final order; provided, however, the department shall not be

1247                             required to pay attorney's fees or costs. This subsection shall not apply to the portion

1248                             of attorney's fees accrued on behalf of a party responding to or bringing a challenge

1249                             to the department's authority to enact a rule or regulation or the department's

1250 jurisdiction or another challenge that could not have been raised in the administrative  
1251 proceeding.”

1252 **SECTION 19.**

1253 Code Section 32-3-11 of the Official Code of Georgia Annotated, relating to power of  
1254 judge to set aside, vacate, and annul declaration of taking, issuance and service on  
1255 condemnor of rule nisi, and hearing, is amended by revising subsection (c) as follows:

1256 “(a) Upon proper pleadings and evidence, under the applicable rules of law, the judge  
1257 of the superior court shall have the authority to set aside, vacate, and annul the  
1258 declaration of taking, together with any title acquired thereby, in the same way and  
1259 manner and for the same reasons as are provided by Code Sections 23-2-60 and 9-  
1260 11-60. The power of the court in this respect shall not be construed as extending to  
1261 a determination of questions of necessity, but there shall be a prima-facie  
1262 presumption that the property or interest condemned is taken for and is necessary to  
1263 the public use provided for in this article.

1264 (b) The power of the court as described in subsection (a) of this Code section shall  
1265 be restricted to the following questions:

1266 (1) Fraud or bad faith, as contemplated by Code Sections 23-2-60 and 9-11-60;  
1267 (2) The improper use of the powers of this article, such as are not contemplated  
1268 by this article;  
1269 (3) The abuse or misuse of the powers of this article; and  
1270 (4) Such other questions as may properly be raised, including the question of  
1271 whether or not this article has been invoked in some respect beyond the  
1272 privileges conferred by this article or by an unauthorized agency, county, or  
1273 municipality.

1274 (c) If the condemnee desires to raise such questions as are outlined in subsection (b)  
1275 of this Code section, the same shall be done by proper pleadings, in the form of a  
1276 petition for review addressed to the judge of the superior court having jurisdiction  
1277 thereof, filed in the same proceedings not later than 30 days subsequent to the date  
1278 of service upon the condemnee of the declaration of taking. The presiding judge  
1279 shall thereupon cause a rule nisi to be issued and served upon the condemnor,  
1280 requiring the condemnor to show cause at a time and place designated by the judge  
1281 why the title acquired by the declaration of taking should not be vacated and set aside  
1282 in the same way and manner as is now provided for setting aside deeds acquired by  
1283 fraud. Such hearing shall be had not earlier than 15 days from the time of service of  
1284 the rule nisi upon the condemnor, nor later than 60 days from the date of filing of the  
1285 declaration of taking, and with the right of appeal by either party, as in other cases.

1286       A petition for review filed pursuant to this subsection shall be governed by the  
1287       provisions set forth in Chapter 3 of Title 5 but only to the extent such provisions are  
1288       not in conflict with any provision of this article.”

SECTION 20.

1290 Code Section 32-3-14 of the Official Code of Georgia Annotated, relating to filing notice  
1291 of appeal, is amended as follows:

1292 "32-3-14.

If the owner, or any of the owners, or any person having a claim against or interest in the property is dissatisfied with the amount of compensation as estimated in the declaration of taking and deposited in court, as provided for in Code Section 32-3-7, such person or persons, or any of them, shall have the right, at any time subsequent to the filing of the declaration and the deposit of the fund into court, but not later than 30 days following the date of the service as provided for in Code Sections 32-3-8 and 32-3-9, to file with the court a notice of appealpetition for review, the same to be in writing and made a part of the record in the proceedings.”

SECTION 21.

1302 Code Section 32-3-16 of the Official Code of Georgia Annotated, relating to appeal to  
1303 jury, evidence to be heard on appeal, and subsequent review of issues not brought before  
1304 jury, is amended by revising subsections (a) and (c) as follows:

1305       “(a) After the notice of appealpetition for review has been filed as provided in Code  
1306       Section 32-3-14, it shall be the duty of the court at the next term thereof, which shall  
1307       convene not earlier than 30 days subsequent to the date of service, as provided for in  
1308       Code Sections 32-3-8 and 32-3-9, to cause an issue to be made and tried by a jury as  
1309       to the value of the property or interest taken and the consequential damages to  
1310       property or interests not taken, with the same right to move for a new trial and file a  
1311       notice of appealpetition for review as in other cases at law, provided that an  
1312       interlocutory award has not become final pursuant to Code Section 32-3-15.

(b) When an appeal has been filed pursuant to Code Section 32-3-14, all subsequent proceedings thereon shall have the nature of a de novo investigation with the right of either party, under the rules of evidence as provided for in the general laws of this state, to introduce evidence concerning:

1317 (1) The fair market value of the property or interest taken or other evidence of  
1318 just and adequate compensation;

1319                   (2) The prospective and consequential damages to the remaining property or  
1320                   interests by reason of the taking and use of the property or interest for the  
1321                   purposes for which taken; and  
1322                   (3) The consequential benefits accruing to such remaining property or interests  
1323                   by reason of such taking and use,  
1324                   provided that such consequential benefits, if any, may be offset against such  
1325                   consequential damages, if any; but, in no event, shall consequential benefits be offset  
1326                   against the value of the property or interest actually taken.  
1327                   (c) If, for any reason, the issues made by the filing of the notice of appealpetition for  
1328                   review provided for in this Code section are not tried by a jury as to the value of the  
1329                   property or interest taken and the consequential damages to the property or interests  
1330                   not taken, at the next term of the court after the filing of such appeal, such fact shall  
1331                   not be cause for dismissal of the appeal and the issues made by such appeal shall be  
1332                   subject to trial at any future term of the court."

## SECTION 22.

1333                   Code Section 32-3-17.1 of the Official Code of Georgia Annotated, relating to decisions  
1334                   upon questions of law, power of judge to give necessary orders and directions, and jury  
1335                   trial in open court only, is amended as follows:

1337                   “32-3-17.1.

1338                   All questions of law arising upon the pleadings or in any other way arising from the  
1339                   cause, subsequent to the filing of the declaration of taking and the deposit of the  
1340                   fund, and subsequent to the filing of notice of appealpetition for review, if any,  
1341                   shall be passed on by the presiding judge who may, from time to time, make such  
1342                   orders and give such directions as are necessary to speed the cause, and as may be  
1343                   consistent with justice and due process of law; but no jury trial shall be had except  
1344                   in open court.”

## SECTION 23.

1345                   Code Section 33-2-27 of the Official Code of Georgia Annotated, relating to pleading  
1346                   and procedure of judicial review and powers of a reviewing court generally, is amended  
1347                   by revising subsections (a) and (c) as follows:

1349                   “(a) The form of proceeding for judicial review shall be by a petition for review in  
1350                   the Superior Court of Fulton County, a copy of which shall be served upon the  
1351                   Commissioner immediately. The proceedings on the petition for review shall be  
1352                   governed by Chapter 3 of Title 5 except as otherwise stated in Title 33.

1353                     (b) The proceedings shall follow the course which is now or may hereafter be  
1354                     prescribed for civil actions in the superior courts, provided that the reviewing court  
1355                     may by order extend the time required for filing any pleadings or motions. In  
1356                     addition, the reviewing court may provide by order for expeditious hearing or trial  
1357                     of any such proceedings as justice or the public interest may require.

1358                     (c) The petition for review or other pleading in which judicial review shall be sought  
1359                     shall plainly specify the action complained of and shall set forth the relief sought  
1360                     and, without excessive detail, the facts and circumstances supporting the petitioner's  
1361                     right to such relief.

1362                     (d) Pending judicial review pursuant to any proceeding authorized for the purpose,  
1363                     the Commissioner, if the action has not become effective, may postpone the effective  
1364                     date of the action complained of. Upon such conditions as may be required and to  
1365                     the extent necessary to preserve the status of proceedings or the rights of the parties  
1366                     or to prevent irreparable injury, in any proceeding for judicial review the reviewing  
1367                     court or any appellate court is authorized to issue all necessary and appropriate orders  
1368                     to postpone the effective date of any action or temporarily to grant or extend relief  
1369                     denied or withheld.

1370                     (e) Whether or not prayed for, the court may remand the matter for further  
1371                     proceedings or findings on terms specified by order or may require the parties to  
1372                     complete any record found to be inaccurate or inadequate for decision."

#### SECTION 24.

1373                     Code Section 33-6-8 of the Official Code of Georgia Annotated, relating to issuance of  
1374                     cease and desist orders, issuance of orders providing for other relief, change in orders,  
1375                     and date on which orders appealable, is amended by revising subsection (b) as follows:

1376                     “(a) If, after the hearing provided for in Code Section 33-6-7, the Commissioner  
1377                     shall determine that the person charged has engaged in an unfair method of  
1378                     competition or an unfair or deceptive act or practice, he shall reduce his findings to  
1379                     writing and shall issue and cause to be served upon the person charged with the  
1380                     violation a copy of the findings and an order requiring such person to cease and desist  
1381                     from engaging in the method of competition, act, or practice; and, if the act or  
1382                     practice is a violation of Code Sections 33-6-4 and 33-6-5, the Commissioner may  
1383                     at his discretion order any one or more of the following:

1384                         (1) Payment of a monetary penalty of not more than \$1,000.00 for each and  
1385                         every act or violation, unless the person knew or reasonably should have known  
1386                         he was in violation of this article, in which case the penalty shall be not more  
1387                         than \$5,000.00 for each and every act or violation;

1389                     (2) Suspension or revocation of the person's license, if he knew or reasonably  
1390                     should have known he was in violation of this article; or  
1391                     (3) Any other relief as is reasonable and appropriate.  
1392                     (b) The Commissioner may at any time before the serving of notice of appeal a copy  
1393                     of a petition for review filed in superior court upon the Commissioner, as provided  
1394                     for in Code Section 33-6-11, or after the expiration of the time allowed by law for  
1395                     the serving of the notice a petition for review, if no notice petition for review has been  
1396                     thus served, amend or set aside in whole or in part any order issued by the  
1397                     Commissioner under this Code section whenever in the Commissioner's opinion the  
1398                     facts and circumstances surrounding the case have so changed as to require the action  
1399                     or if the public interest shall so require. No change of an order in a manner  
1400                     unfavorable to the person charged or to the parties at interest shall be made except  
1401                     after notice and opportunity for hearing. The date of the Commissioner's last order  
1402                     shall be the point of time from which it may be reviewed by appeal."

## SECTION 25.

1403  
1404                     Code Section 34-9-105 of the Official Code of Georgia Annotated, relating to when  
1405                     award deemed final, appeal to superior court, grounds for setting aside decisions, and  
1406                     appeal to Court of Appeals, is amended by revising subsection (b) as follows:

1407                     “(a) Any award of the administrative law judge provided for in Code Section 34-9-  
1408                     102 for which no timely application for review has been filed or any award of the  
1409                     members of the board upon such review as provided in Code Section 34-9-103 shall,  
1410                     in either event, as the case may be, and subject to the other provisions of this chapter,  
1411                     be a final award and shall be conclusive and binding as to all questions of fact.

1412                     (b) Either party to the dispute may, within 20 days from the date of any such final  
1413                     award or within 20 days from the date of any other final order or judgment of the  
1414                     members of the board, but not thereafter, appeal from the decision in such final  
1415                     award or from any other final decision of the board to the superior court of the county  
1416                     in which the injury occurred or, if the injury occurred outside the state, to the superior  
1417                     court of the county in which the original hearing was held, in the manner and upon  
1418                     the grounds provided in this Code section and as provided in Chapter 3 of Title 5;  
1419                     provided, however, to the extent Chapter 3 of Title 5 conflicts with this Code section,  
1420                     this Code section shall govern. Said appeal A copy of the petition for review shall  
1421                     be filed with served on the clerk for the board in writing stating generally the grounds  
1422                     upon which such appeal is sought. In the event of an appeal, the board shall, within  
1423                     30 days of the filing service of the notice of appeal petition for review with the board,  
1424                     transmit certified copies of all documents and papers in its file together with a

1425 transcript of the testimony taken and its findings of fact and decision to the clerk of  
1426 the superior court to which the case is appealable, as provided in this subsection.  
1427 The case so appealed may then be brought by either party upon ten days' written  
1428 notice to the other before the superior court for a hearing upon such record, subject  
1429 to an assignment of the case for hearing by the court; provided, however, if the court  
1430 does not hear the case within 60 days of the date of docketing in the superior court,  
1431 the decision of the board shall be considered affirmed by operation of law unless a  
1432 hearing originally scheduled to be heard within the 60 days has been continued to a  
1433 date certain by order of the court. In the event a hearing is held later than 60 days  
1434 after the date of docketing in the superior court because same has been continued to  
1435 a date certain by order of the court, the decision of the board shall be considered  
1436 affirmed by operation of law if no order of the court disposing of the issues on appeal  
1437 has been entered within 20 days after the date of the continued hearing. If a case is  
1438 heard within 60 days from the date of docketing in the superior court, the decision  
1439 of the board shall be considered affirmed by operation of law if no order of the court  
1440 dispositive of the issues on appeal has been entered within 20 days of the date of the  
1441 hearing.

1442 (c) The findings made by the members within their powers shall, in the absence of  
1443 fraud, be conclusive; but upon such hearing the court shall set aside the decision if  
1444 it is found that:

- 1445 (1) The members acted without or in excess of their powers;
- 1446 (2) The decision was procured by fraud;
- 1447 (3) The facts found by the members do not support the decision;
- 1448 (4) There is not sufficient competent evidence in the record to warrant the  
1449 members making the decision; or
- 1450 (5) The decision is contrary to law.

1451 (d) No decision of the board shall be set aside by the court upon any grounds other  
1452 than one or more of the grounds stated in subsection (c) of this Code section. In the  
1453 event a hearing is not held and a decision is not rendered by the superior court within  
1454 the time provided in subsection (b) of this Code section, the decision of the board  
1455 shall, by operation of law, be affirmed. The date of entry of judgment for purposes  
1456 of appeal pursuant to Code Section 5-6-35 of a decision affirmed by operation of law  
1457 without action of the superior court shall be the last date on which the superior court  
1458 could have taken action under subsection (b) of this Code section. Upon the setting  
1459 aside of any such decision of the board, the court may recommit the controversy to  
1460 the board for further hearing or proceedings in conformity with the judgment and  
1461 opinion of the court; or such court may enter the proper judgment upon the findings,

1462 as the nature of the case may demand. Such decree of the court shall have the same  
1463 effect and all proceedings in relation thereto shall, subject to the other provisions of  
1464 this chapter, thereafter be the same as though rendered in an action heard and  
1465 determined by the court.

1466 (e) Any party in interest who is aggrieved by a judgment entered by the superior  
1467 court upon an appeal from a decision of the board to the superior court may have  
1468 such judgment reviewed by the Court of Appeals within the time and in the manner  
1469 provided by law. In case of an appeal from the decision of the board, the appeal  
1470 shall operate as a supersedeas if the employer has complied with the provisions of  
1471 this chapter respecting insurance; and no such employer shall be required to make  
1472 payment of the award involved in the questions made in the case so appealed until  
1473 such questions at issue therein shall have been fully determined in accordance with  
1474 this chapter.”

## SECTION 26.

1475 Code Section 36-15-9 of the Official Code of Georgia Annotated, relating to collection  
1476 of additional costs in court cases, amount, determination of need as prerequisite to  
1477 collection, and collection in certain criminal cases, is amended by revising subsection (a)  
1478 as follows:

1480 “(a) For the purpose of providing funds for those uses specified in Code Section 36-  
1481 15-7, a sum not to exceed \$5.00, in addition to all other legal costs, may be charged  
1482 and collected in each action or case, either civil or criminal, including, without  
1483 limiting the generality of the foregoing, all adoptions, ~~certiorari~~ or petitions for review,  
1484 applications by personal representatives for leave to sell or reinvest, trade name  
1485 registrations, applications for change of name, and all other proceedings of civil or  
1486 criminal or quasi-criminal nature, filed in the superior, state, probate, and any other  
1487 courts of record, except county recorders’ courts or municipal courts. The amount  
1488 of such additional costs to be charged and collected, if any, in each such case shall  
1489 be fixed by the chief judge of the superior court of the circuit in which such county  
1490 is located. Such additional costs shall not be charged and collected unless the chief  
1491 judge first determines that a need exists for a law library in the county. The clerk of  
1492 each and every such court in such counties in which such a law library is established  
1493 shall collect such fees and remit the same to the treasurer of the board of trustees of  
1494 the county law library of the county in which the case was brought, on the first day  
1495 of each month. Where fees collected by the treasurer have been allocated for the  
1496 purpose of establishing or maintaining the codification of county ordinances, the  
1497 allocated amount shall in turn be remitted by the treasurer to the county governing

1498 authority for said purpose on a monthly basis or as otherwise agreed by the treasurer  
1499 and the county governing authority. The county ordinance code provided for in  
1500 subsection (a) of Code Section 36-15-7 shall be maintained by the county governing  
1501 authority. When the costs in criminal cases are not collected, the cost provided in  
1502 this Code section shall be paid from the fine and bond forfeiture fund of the court in  
1503 which the case is filed, before any other disbursement or distribution of such fines  
1504 or forfeitures is made.

1505 (a.1) In any county having a population of more than 550,000 according to the United  
1506 States decennial census of 1980 or any future such census, the power and authority  
1507 provided in subsection (a) of this Code section for the chief judge shall be exercised  
1508 by the superior court judge who has the most service as a superior court judge.  
1509 (b) A case, within the meaning of subsection (a) of this Code section, shall mean and  
1510 be construed as any matter which is docketed upon the official dockets of the  
1511 enumerated courts and to which a number is assigned, whether such matter is  
1512 contested or not.  
1513 (c) Reserved.  
1514 (d) Notwithstanding that provision of subsection (a) of this Code section which  
1515 excepts recorders' courts from the requirement of charging and collecting the  
1516 additional costs provided for by said subsection (a), said subsection (a) and  
1517 subsection (b) of this Code section shall be applicable to the recorder's court of each  
1518 county of this state having a population of not less than 200,000 nor more than  
1519 275,000 according to the United States decennial census of 1980 or any future such  
1520 census.  
1521 (e) Notwithstanding that provision of subsection (a) of this Code section which  
1522 excepts county recorders' courts and municipal courts from the requirement of  
1523 charging and collecting the additional costs provided for by that subsection (a),  
1524 subsections (a) and (b) of this Code section shall apply to any municipal court of a  
1525 municipality if the governing authority thereof, by ordinance or resolutions,  
1526 approves the charging and collecting of such costs pursuant to subsections (a) and  
1527 (b) of this Code section.  
1528 (f) Reserved.  
1529 (g) In counties where a law library authorized by this chapter has not been  
1530 established, upon request of the county governing authority, the chief judge of a  
1531 circuit shall direct that the fees authorized by this Code section be charged and  
1532 collected for the purpose of the establishment and maintenance of the codification  
1533 of county ordinances. However, the amount transferred to the county governing  
1534 authority pursuant to this subsection shall not exceed the cost of establishing or

1535 maintaining the codification. The clerk of each and every court in such counties in  
1536 which costs are collected for the purpose of carrying out the provisions of this  
1537 subsection shall remit the same to the county governing authority on the first day of  
1538 each month. The county ordinance code provided for in this subsection shall be  
1539 maintained by the county governing authority. When the costs in criminal cases are  
1540 not collected, the cost provided in this Code section shall be paid from the fine and  
1541 bond forfeiture fund of the court in which the case is filed before any other  
1542 disbursement or distribution of such fines or forfeitures is made.”

1543 **SECTION 27.**

1544 Code Section 36-32-2.1 of the Official Code of Georgia Annotated, relating to removal  
1545 of judges, is amended by revising subsection (e) as follows:

1546 “(a) As used in this Code section, the term “judge” means an individual serving as  
1547 an appointed municipal court judge.

1548 (b) (1) A judge may be removed during his or her term of office by a two-thirds’  
1549 vote of the entire membership of the governing authority of the municipal  
1550 corporation for:

1551 (A) Willful misconduct in office;

1552 (B) Willful and persistent failure to perform duties;

1553 (C) Habitual intemperance;

1554 (D) Conduct prejudicial to the administration of justice which brings the  
1555 judicial office into disrepute; or

1556 (E) Disability seriously interfering with the performance of duties, which  
1557 is, or is likely to become, of a permanent character.

1558 (2) A municipality may define in its charter further conduct that may lead to a  
1559 judge’s removal.

1560 (c) Removal proceedings pursuant to subsection (b) of this Code section may be  
1561 initiated only by written petition setting forth the grounds for removal of a judge  
1562 signed by one or more members of the governing authority of the municipal  
1563 corporation. Upon submission of the petition to remove the judge to such governing  
1564 authority, the governing authority may consider the petition and determine if the  
1565 petition relates to and adversely affects the administration of the office of the judge  
1566 and the rights and interests of the public. If it is determined at a public meeting by  
1567 a majority vote of the governing authority of the municipal corporation that there is  
1568 an adverse impact, the judge may be suspended immediately and without further  
1569 action for up to 60 days pending the final determination pursuant to subsection (e)  
1570 of this Code section. A judge suspended pursuant to this subsection shall continue

1571 to receive the compensation from his or her office until the final determination on  
1572 the petition or expiration of the suspension.

1573 (d) If by the expiration of the suspension period no formal resolution of the petition  
1574 has been made, the judge shall be reinstated.

1575 (e) Removal proceedings shall consist of an open and public hearing held by the  
1576 governing authority of the municipal corporation, provided that the judge against  
1577 whom such charges have been brought shall be furnished a copy of the charges at  
1578 least ten days prior to the hearing. At the conclusion of the hearing, the governing  
1579 authority of the municipal corporation shall determine whether or not to remove the  
1580 judge from office. The governing authority of the municipal corporation may adopt  
1581 rules governing the procedures at such hearings, provided that such hearings comport  
1582 with due process. The right ~~of certiorari from the~~ ~~to appeal~~ a decision to remove a  
1583 judge from office shall exist, ~~and such certiorari shall be obtained under the sanction~~  
1584 ~~of a judge of~~ The decision to remove a judge from office under this Code section  
1585 shall be appealed by filing a petition for review in the superior court of the circuit in  
1586 which the governing authority of the municipal corporation is situated. Such an  
1587 appeal shall be governed by the provisions of Chapter 3 of Title 5.

1588 (f) This Code section shall not affect the power and authority of the Judicial  
1589 Qualifications Commission to discipline, remove, or cause the involuntary  
1590 retirement of judges.

1591 (g) Any vacancy in a judgeship created by the removal of a judge pursuant to this  
1592 Code section may be temporarily filled by the governing authority of the municipal  
1593 corporation for a period not longer than 90 days by any individual qualified by law  
1594 to serve as a municipal court judge. If after the conclusion of the removal  
1595 proceedings, including the appeal period, there is a vacancy for such judgeship, the  
1596 governing authority of the municipal corporation may appoint a judge in the same  
1597 manner as set forth in Code Section 36-32-2.

1598 (h) The provisions of this Code section shall expressly supersede any conflicting  
1599 local law of this state; provided, however, that this Code section shall not apply to a  
1600 local Act creating a municipal court for a consolidated government.”

1601 **SECTION 28.**

1602 Code Section 36-74-48 of the Official Code of Georgia Annotated, relating to appeals to  
1603 superior court, is amended as follows:

1604 “36-74-48.

1605 An aggrieved party, including the local governing body, may appeal a final  
1606 administrative order of an enforcement board to the superior court of the county in

1607 which the subject property is located. Such an appeal shall be in the form of a ~~writ~~  
1608 ~~or certiorari~~~~petition for review~~ governed by Chapter 43 of Title 5 and shall be heard  
1609 on the record. ~~An appeal~~A petition for review shall be filed within 30 days of the  
1610 execution of the order to be appealed.”

1611 **SECTION 29.**

1612 Code Section 37-3-150 of the Official Code of Georgia Annotated, relating to right to  
1613 appeal orders of probate court, juvenile court, or hearing examiner, payment of costs of  
1614 appeal, right to subsequent appeal, and right to legal counsel on appeal, is amended as  
1615 follows:

1616 “37-3-150.

1617 The patient, the patient’s representatives, or the patient’s attorney may appeal any  
1618 order of the probate court or hearing officer rendered in a proceeding under this  
1619 chapter to the superior court of the county in which the proceeding was held, except  
1620 as otherwise provided in Article 6 of Chapter 9 of Title 15, and may appeal any order  
1621 of the juvenile court rendered in a proceeding under this chapter to the Court of  
1622 Appeals or the Supreme Court. The appeal to the superior court shall be made in the  
1623 same manner as appeals from the probate court to the superior court, except that the  
1624 appeal shall be heard before the court sitting without a jury as soon as practicable  
1625 but not later than 30 days following the date on which the appeal is filed with the  
1626 clerk of the superior court. The appeal from the order of the juvenile court to the  
1627 Court of Appeals or the Supreme Court shall be as provided by law but shall be heard  
1628 as expeditiously as possible. The patient must pay all costs upon filing any appeal  
1629 authorized under this Code section or must make an affidavit that he or she is unable  
1630 to pay costs. The patient shall retain all rights of review of any order of the superior  
1631 court, the Court of Appeals, or the Supreme Court, as provided by law. The patient  
1632 shall have a right to counsel or, if unable to afford counsel, shall have counsel  
1633 appointed for the patient by the court. The appeal rights provided to the patient, the  
1634 patient’s representatives, or the patient’s attorney in this Code section are in addition  
1635 to any other appeal rights which the parties may have, and the provision of the right  
1636 for the patient, the patient’s representatives, or the patient’s attorney to appeal does  
1637 not deny the right to the Department of Behavioral Health and Developmental  
1638 Disabilities to appeal under the general appeal provisions of Code Sections 5-3-2  
1639 and 5-3-3Section 5-3-4.”

1640 **SECTION 30.**

1641 Code Section 37-4-110 of the Official Code of Georgia Annotated, relating to appeal  
1642 rights of clients, their representatives, or attorneys, payment of costs of appeal, and right  
1643 of client to subsequent appeal and to legal counsel on appeal, is amended as follows:

1644 “37-4-110.

1645 The client, the client’s representatives, or the client’s attorney may appeal any order  
1646 of the probate court or administrative law judge rendered in a proceeding under this  
1647 chapter to the superior court of the county in which the proceeding was held, except  
1648 as otherwise provided in Article 6 of Chapter 9 of Title 15, and may appeal any order  
1649 of the juvenile court rendered in a proceeding under this chapter to the Court of  
1650 Appeals or the Supreme Court. The appeal to the superior court shall be made in the  
1651 same manner as appeals from the probate court to the superior court, except that the  
1652 appeal shall be heard before the court sitting without a jury as soon as practicable  
1653 but not later than 30 days following the date on which the appeal is filed with the  
1654 clerk of the superior court. The appeal from the order of the juvenile court to the  
1655 Court of Appeals or the Supreme Court shall be as provided by law but shall be heard  
1656 as expeditiously as possible. The client must pay all costs upon filing any appeal  
1657 authorized under this Code section or must make an affidavit that he or she is unable  
1658 to pay costs. The client shall retain all rights of review of any order of the superior  
1659 court, the Court of Appeals, or the Supreme Court as provided by law. The client  
1660 shall have a right to counsel or, if unable to afford counsel, shall have counsel  
1661 appointed for the client by the court. The appeal rights provided to the client, the  
1662 client’s representatives, or the client’s attorney in this Code section are in addition  
1663 to any other appeal rights that the parties may have, and the provision of the right for  
1664 the client, the client’s representatives, or the client’s attorney to appeal does not deny  
1665 the right to the Department of Behavioral Health and Developmental Disabilities to  
1666 appeal under the general appeal provisions of Code Sections 5-3-2 and 5-3-3Section  
1667 5-3-4.”

## SECTION 31.

1668  
1669 Code Section 37-7-150 of the Official Code of Georgia Annotated, relating to the right  
1670 to appeal orders of probate court, juvenile court, or hearing examiner, payment of costs  
1671 of appeal, right of patient to subsequent appeal, and right of patient to legal counsel on  
1672 appeal, is amended as follows:

1673 “The patient, the patient’s representatives, or the patient’s attorney may appeal any  
1674 order of the probate court or hearing officer rendered in a proceeding under this  
1675 chapter to the superior court of the county in which the proceeding was held, except  
1676 as otherwise provided in Article 6 of Chapter 9 of Title 15, and may appeal any order

1677 of the juvenile court rendered in a proceeding under this chapter to the Court of  
1678 Appeals or the Supreme Court. The appeal to the superior court shall be made in the  
1679 same manner as appeals from the probate court to the superior court, except that the  
1680 appeal shall be heard before the court sitting without a jury as soon as practicable  
1681 but not later than 30 days following the date on which the appeal is filed with the  
1682 clerk of the superior court. The appeal from the order of the juvenile court to the  
1683 Court of Appeals or the Supreme Court shall be as provided by law but shall be heard  
1684 as expeditiously as possible. The patient must pay all costs upon filing any appeal  
1685 authorized under this Code section or must make an affidavit that he or she is unable  
1686 to pay costs. The patient shall retain all rights of review of any order of the superior  
1687 court, the Court of Appeals, or the Supreme Court, as provided by law. The patient  
1688 shall have a right to counsel or, if unable to afford counsel, shall have counsel  
1689 appointed for the patient by the court. The appeal rights provided to the patient, the  
1690 patient's representatives, or the patient's attorney in this Code section are in addition  
1691 to any other appeal rights that the parties may have, and the provision of the right for  
1692 the patient, the patient's representatives, or the patient's attorney to appeal does not  
1693 deny the right to the Department of Behavioral Health and Developmental  
1694 Disabilities to appeal under the general appeal provisions of Code ~~Sections 5-3-2~~  
1695 and ~~5-3-3~~Section 5-3-4."

## SECTION 32.

1696  
1697 Code Section 38-3-64 of the Official Code of Georgia Annotated, relating to appeal rights  
1698 of adversely affected parties and cost of appeal borne by state, is amended by revising  
1699 subsection (b) as follows:

1700 "(a) Any person whose rights or interests are adversely affected by an order declaring  
1701 the existence of a judicial emergency or any modification or extension of such an  
1702 order shall be entitled to appeal.

1703 (b) A ~~notice of appeal~~petition for review shall be filed no later than 45 days after the  
1704 expiration of the judicial emergency order, or any modification or extension of a  
1705 judicial emergency order, from which an appeal is sought. A ~~notice of appeal~~  
1706 petition for review shall be filed with the clerk of a superior court in any jurisdiction  
1707 affected by the order and shall be served upon:

- 1708 (1) The authorized judicial official who issued the order;
- 1709 (2) The parties to any criminal proceeding or civil litigation in which the  
1710 appellant is involved which would be affected by the appeal;
- 1711 (3) The district attorney of the county in which the ~~notice of appeal~~petition for  
1712 review is filed; and

1713                     (4) All other parties in any criminal proceeding or civil litigation which would  
1714                     be affected by the appeal; provided, however, that service in this regard shall be  
1715                     accomplished by publishing notice of the filing of the appeal in the newspaper  
1716                     which is the legal organ for the county in which the ~~notice of appeal~~petition for  
1717                     review is filed.

1718                     (c) The appeal shall be heard immediately by the Georgia Court of Appeals under  
1719                     the procedure of emergency motions. A party dissatisfied by the judgment of the  
1720                     Georgia Court of Appeals may appeal as a matter of right to the Georgia Supreme  
1721                     Court. Filing fees for these appeals shall be waived. All costs of court shall be borne  
1722                     by the state. Appeals shall be heard expeditiously.”

### **SECTION 33.**

1723                     Code Section 40-13-28 of the Official Code of Georgia Annotated, relating to appeal to  
1724                     superior court and bond, is amended as follows:

1725                     “40-13-28.

1726                     Any defendant convicted under this article shall have the right of appeal to the  
1727                     superior court. The provisions of subsections (b), (c), and (d) of Code Section 5-3-  
1728                     29Section 5-3-5 and subsection (e) of Code Section 5-3-305-3-9 shall not apply to  
1729                     appeals under this Code section. Otherwise, the appeal shall be entered as appeals  
1730                     are entered from the probate court to the superior court, provided that the defendant  
1731                     shall be entitled to bail and shall be released from custody upon giving the bond as  
1732                     is provided for appearances in criminal cases in the courts of this state. Such bond  
1733                     shall have the same conditions as appearance bonds in criminal cases. The appeal  
1734                     to the superior court shall not be a de novo investigation before a jury but shall be  
1735                     on the record of the hearing as certified by the judge of that court who presided at  
1736                     the hearing below.”

### **SECTION 34.**

1737                     Code Section 41-2-9, of the Official Code of Georgia Annotated, relating to county or  
1738                     municipal ordinances relating to unfit buildings or structures, is amended by revising  
1739                     subsection (d) as follows:

1740                     “(a) In addition to any other remedies or enforcement mechanisms available, upon  
1741                     the adoption of an ordinance finding that dwelling, building, or structure conditions  
1742                     of the character described in Code Section 41-2-7 exist within a county or  
1743                     municipality, the governing body of such county or municipality is authorized to  
1744                     adopt ordinances relating to the dwellings, buildings, or structures within such  
1745                     county or municipality which are unfit for human habitation or commercial,

1748 industrial, or business uses and not in compliance with applicable codes, which are  
1749 vacant and being used in connection with the commission of drug crimes, or which  
1750 constitute an endangerment to the public health or safety as a result of unsanitary or  
1751 unsafe conditions. Such ordinances shall include at least the following provisions:

1752 (1) That it is the duty of the owner of every dwelling, building, structure, or  
1753 property within the jurisdiction to construct and maintain such dwelling,  
1754 building, structure, or property in conformance with applicable codes in force  
1755 within the jurisdiction, or such ordinances which regulate and prohibit activities  
1756 on property and which declare it to be a public nuisance to construct or maintain  
1757 any dwelling, building, structure, or property in violation of such codes or  
1758 ordinances;

1759 (2) That a public officer be designated or appointed to exercise the powers  
1760 prescribed by the ordinances;

1761 (3) That whenever a request is filed with the public officer by a public authority  
1762 or by at least five residents of the municipality or by five residents of the  
1763 unincorporated area of the county if the property in question is located in the  
1764 unincorporated area of the county charging that any dwelling, building,  
1765 structure, or property is unfit for human habitation or for commercial, industrial,  
1766 or business use and not in compliance with applicable codes; is vacant and being  
1767 used in connection with the commission of drug crimes; or constitutes an  
1768 endangerment to the public health or safety as a result of unsanitary or unsafe  
1769 conditions, the public officer shall make an investigation or inspection of the  
1770 specific dwelling, building, structure, or property. If the officer's investigation  
1771 or inspection identifies that any dwelling, building, structure, or property is unfit  
1772 for human habitation or for commercial, industrial, or business use and not in  
1773 compliance with applicable codes; is vacant and being used in connection with  
1774 the commission of drug crimes; or constitutes an endangerment to the public  
1775 health or safety as a result of unsanitary or unsafe conditions, the public officer  
1776 may issue a complaint in rem against the lot, tract, or parcel of real property on  
1777 which such dwelling, building, or structure is situated or where such public  
1778 health hazard or general nuisance exists and shall cause summons and a copy of  
1779 the complaint to be served on the interested parties for such dwelling, building,  
1780 or structure. The complaint shall identify the subject real property by  
1781 appropriate street address and official tax map reference; identify the interested  
1782 parties; state with particularity the factual basis for the action; and contain a  
1783 statement of the action sought by the public officer to abate the alleged nuisance.  
1784 The summons shall notify the interested parties that a hearing will be held before

1785 a court of competent jurisdiction as determined by Code Section 41-2-5, at a  
1786 date and time certain and at a place within the county or municipality where the  
1787 property is located. Such hearing shall be held not less than 15 days nor more  
1788 than 45 days after the filing of said complaint in the proper court. The interested  
1789 parties shall have the right to file an answer to the complaint and to appear in  
1790 person or by attorney and offer testimony at the time and place fixed for hearing;  
1791 (4) That if, after such notice and hearing, the court determines that the dwelling,  
1792 building, or structure in question is unfit for human habitation or is unfit for its  
1793 current commercial, industrial, or business use and not in compliance with  
1794 applicable codes; is vacant and being used in connection with the commission  
1795 of drug crimes; or constitutes an endangerment to the public health or safety as  
1796 a result of unsanitary or unsafe conditions, the court shall state in writing  
1797 findings of fact in support of such determination and shall issue and cause to be  
1798 served upon the interested parties that have answered the complaint or appeared  
1799 at the hearing an order:

1800 (A) If the repair, alteration, or improvement of the said dwelling, building,  
1801 or structure can be made at a reasonable cost in relation to the present value  
1802 of the dwelling, building, or structure, requiring the owner, within the time  
1803 specified in the order, to repair, alter, or improve such dwelling, building,  
1804 or structure so as to bring it into full compliance with the applicable codes  
1805 relevant to the cited violation and, if applicable, to secure the structure so  
1806 that it cannot be used in connection with the commission of drug crimes; or  
1807 (B) If the repair, alteration, or improvement of the said dwelling, building,  
1808 or structure in order to bring it into full compliance with applicable codes  
1809 relevant to the cited violations cannot be made at a reasonable cost in  
1810 relation to the present value of the dwelling, building, or structure, requiring  
1811 the owner, within the time specified in the order, to demolish and remove  
1812 such dwelling, building, or structure and all debris from the property.

1813 For purposes of this Code section, the court shall make its determination of  
1814 “reasonable cost in relation to the present value of the dwelling, building,  
1815 or structure” without consideration of the value of the land on which the  
1816 structure is situated; provided, however, that costs of the preparation  
1817 necessary to repair, alter, or improve a structure may be considered. Income  
1818 and financial status of the owner shall not be factor in the court’s  
1819 determination. The present value of the structure and the costs of repair,  
1820 alteration, or improvement may be established by affidavits of real estate  
1821 appraisers with a Georgia appraiser classification as provided in Chapter

1822        39A of Title 43, qualified building contractors, or qualified building  
1823        inspectors without actual testimony presented. Costs of repair, alteration,  
1824        or improvement of the structure shall be the cost necessary to bring the  
1825        structure into compliance with the applicable codes relevant to the cited  
1826        violations in force in the jurisdiction;

1827        (5) That, if the owner fails to comply with an order to repair or demolish the  
1828        dwelling, building, or structure, the public officer may cause such dwelling,  
1829        building, or structure to be repaired, altered, or improved or to be vacated and  
1830        closed or demolished. Such abatement action shall commence within 270 days  
1831        after the expiration of time specified in the order for abatement by the owner.  
1832        Any time during which such action is prohibited by a court order issued pursuant  
1833        to Code Section 41-2-13 or any other equitable relief granted by a court of  
1834        competent jurisdiction shall not be counted toward the 270 days in which such  
1835        abatement action must commence. The public officer shall cause to be posted  
1836        on the main entrance of the building, dwelling, or structure a placard with the  
1837        following words:

1838        "This building is unfit for human habitation or commercial, industrial, or  
1839        business use and does not comply with the applicable codes or has been ordered  
1840        secured to prevent its use in connection with drug crimes or constitutes an  
1841        endangerment to public health or safety as a result of unsanitary or unsafe  
1842        conditions. The use or occupation of this building is prohibited and unlawful.";

1843        (6) If the public officer has the structure demolished, reasonable effort shall be  
1844        made to salvage reusable materials for credit against the cost of demolition. The  
1845        proceeds of any moneys received from the sale of salvaged materials shall be  
1846        used or applied against the cost of the demolition and removal of the structure,  
1847        and proper records shall be kept showing application of sales proceeds. Any  
1848        such sale of salvaged materials may be made without the necessity of public  
1849        advertisement and bid. The public officer and governing authority are relieved  
1850        of any and all liability resulting from or occasioned by the sale of any such  
1851        salvaged materials, including, without limitation, defects in such salvaged  
1852        materials; and

1853        (7) That the amount of the cost of demolition, including all court costs, appraisal  
1854        fees, administrative costs incurred by the county tax commissioner or municipal  
1855        tax collector or city revenue officer, and all other costs necessarily associated  
1856        with the abatement action, including restoration to grade of the real property  
1857        after demolition, shall be a lien against the real property upon which such cost  
1858        was incurred.

1859 (b)

(1) The lien provided for in paragraph (7) of subsection (a) of this Code section shall attach to the real property upon the filing of a certified copy of the order requiring repair, closure, or demolition in the office of the clerk of superior court in the county where the real property is located and shall relate back to the date of the filing of the lis pendens notice required under subsection (c) of Code Section 41-2-12. The clerk of superior court shall record and index such certified copy of the order in the deed records of the county and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid.

(2) Upon final determination of costs, fees, and expenses incurred in accordance with this chapter, the public officer responsible for enforcement actions in accordance with this chapter shall transmit to the appropriate county tax commissioner or municipal tax collector or city revenue officer a statement of the total amount due and secured by said lien, together with copies of all notices provided to interested parties. The statement of the public officer shall be transmitted within 90 days of completion of the repairs, demolition, or closure. It shall be the duty of the appropriate county tax commissioner or municipal tax collector or city revenue officer, who is responsible or whose duties include the collection of municipal taxes, to collect the amount of the lien using all methods available for collecting real property ad valorem taxes, including specifically Chapter 4 of Title 48; provided, however, that the limitation of Code Section 48-4-78 which requires 12 months of delinquency before commencing a tax foreclosure shall not apply. A county tax commissioner shall collect and enforce municipal liens imposed pursuant to this chapter in accordance with Code Section 48-5-359.1. The county tax commissioner or municipal tax collector or city revenue officer shall remit the amount collected to the governing authority of the county or municipality whose lien is being collected.

(3) Enforcement of liens pursuant to this Code section may be initiated at any time following receipt by the county tax commissioner or municipal tax collector or city revenue officer of the final determination of costs in accordance with this chapter. The unpaid lien amount shall bear interest and penalties from and after the date of final determination of costs in the same amount as applicable to interest and penalties on unpaid real property ad valorem taxes. An enforcement proceeding pursuant to Code Section 48-4-78 for delinquent ad valorem taxes may include all amounts due under this chapter.

1896                             (4) The redemption amount in any enforcement proceeding pursuant to this  
1897                             Code section shall be the full amount of the costs as finally determined in  
1898                             accordance with this Code section together with interest, penalties, and costs  
1899                             incurred by the governing authority, county tax commissioner, municipal tax  
1900                             collector, or city revenue officer in the enforcement of such lien. Redemption  
1901                             of property from the lien may be made in accordance with the provisions of  
1902                             Code Sections 48-4-80 and 48-4-81.  
1903                             (c) The governing authority may waive and release any such lien imposed on  
1904                             property upon the owner of such property entering into a contract with the county or  
1905                             municipality agreeing to a timetable for rehabilitation of the real property or the  
1906                             dwelling, building, or structure on the property and demonstrating the financial  
1907                             means to accomplish such rehabilitation.  
1908                             (d) Where the abatement action does not commence in the superior court, review of  
1909                             a court order requiring the repair, alteration, improvement, or demolition of a  
1910                             dwelling, building, or structure shall be by direct a de novo proceeding in appeal to  
1911                             the superior court under Code ~~Section 5-3-29~~Sections 5-3-4 and 5-3-5.  
1912                             (e) In addition to the procedures and remedies in this chapter, a governing authority  
1913                             may provide by ordinance that designated public officers may issue citations for  
1914                             violations of state minimum standard codes, optional building, fire, life safety, and  
1915                             other codes adopted by ordinance, and conditions creating a public health hazard or  
1916                             general nuisance, and seek to enforce such citations in a court of competent  
1917                             jurisdiction prior to issuing a complaint in rem as provided in this Code section.  
1918                             (f) Nothing in this Code section shall be construed to impair or limit in any way the  
1919                             power of the county or municipality to define and declare nuisances and to cause  
1920                             their removal or abatement by summary proceedings or otherwise.”

## 1921                             SECTION 35.

1922                             Code Section 43-17-4 of the Official Code of Georgia Annotated, relating to bonding  
1923                             requirements for registered paid solicitors and deposits in lieu of bond, is amended by  
1924                             revising subsections (c) and (d) as follows:

1925                             “(a) An applicant for registration as a paid solicitor who will have physical  
1926                             possession or legal control over any contributions collected by it in or from this state  
1927                             on behalf of any charitable organizations shall file with the Secretary of State a bond  
1928                             satisfactory to the Secretary of State in the sum of \$10,000.00 payable to the State  
1929                             of Georgia for the use of all interested persons and conditioned upon the faithful  
1930                             compliance by the principal with any and all provisions of this chapter and any  
1931                             regulations and orders issued by the Secretary of State. Such an applicant for renewal

of registration as a paid solicitor shall also file such bond. Except as otherwise provided in subsection (b) of this Code section, the Secretary of State shall not register such an applicant or renew the registration of such an applicant until such bond is filed as provided in this subsection. Any such bond may be canceled by the principal or surety by giving notice to the Secretary of State, but such cancellation shall not affect any cause of action accruing thereon prior to cancellation and such cancellation shall result in automatic cancellation of the principal's registration until a new bond satisfactory to the Secretary of State is filed. Any action on such bond must be brought within two years after accrual of the cause of action. The amount prescribed in this subsection for the bond required of a paid solicitor shall be construed as being the aggregate liability recoverable against such bond, regardless of the number of claimants, and shall not be construed as individual liability.

(b) The requirement for filing of such bond by an applicant for registration or renewal of registration as a paid solicitor shall not be applicable if the applicant for registration or renewal of registration as a paid solicitor has deposited in trust with the Secretary of State:

(1) A certificate of deposit or letter of credit evidencing a deposit with a financial institution satisfactory to the Secretary of State in the amount of \$10,000.00 payable to the applicant and assigned to the Secretary of State;

(2) An irrevocable letter of credit addressed to the Secretary of State in the amount of \$10,000.00, issued by a bank which is a member of the Federal Reserve System and conditioned only upon the rendering of a judgment by a court of competent jurisdiction in which the applicant is found liable for damages under this chapter; or

(3) Obligations of the United States, an agency thereof, or the State of Georgia which mature in not more than two years and which have a market value as of the date of deposit of at least \$10,000.00.

(c) Such deposits shall be held for the benefit of all persons to whom the applicant is liable for damages under this chapter for a period of two years after such applicant's registration has expired or been revoked; provided, however, such deposits shall not be released at any time while there is pending against the applicant an action (including any direct appeal of such action, or an appeal based on a petition for certiorari jurisdiction, or a petition for review), of which the Secretary of State has notice, in a court of competent jurisdiction in which it is alleged that the applicant is liable for damages under this chapter. Such deposits shall not be released except upon application to and the written order of the Secretary of State. The Secretary of State shall have no liability for any such release of any deposit or part thereof made

1969 by the Secretary of State in good faith. The Secretary of State may designate any  
1970 regularly constituted state depository having trust powers domiciled in this state as  
1971 a depository to receive and hold any such deposit. Any such deposit so held shall be  
1972 at the expense of the applicant. Such depository shall give to the Secretary of State  
1973 a proper trust and safekeeping receipt upon which the Secretary of State shall give  
1974 an official receipt to the applicant. The State of Georgia shall be responsible for the  
1975 safekeeping and return of all deposits made pursuant to this Code section. So long  
1976 as the applicant complies with this chapter, the applicant may demand, receive, bring  
1977 an action for, and recover the income from the securities deposited or may exchange  
1978 and substitute for the letter of credit or securities deposited or a part thereof, with the  
1979 approval of the Secretary of State, a letter of credit or securities of the kinds specified  
1980 in subsection (b) of this Code section of equivalent or greater value. No judgment  
1981 creditor or other claimant of the applicant shall levy upon any deposit held pursuant  
1982 to this Code section or upon any part thereof, except as specified in this subsection.  
1983 Whenever any person shall file an action in a court of competent jurisdiction in  
1984 which it is alleged that the applicant is liable for damages under this chapter, such  
1985 person, in order to secure his recovery, may give notice to the Secretary of State of  
1986 such alleged liability and of the amount of damages claimed, after which notice the  
1987 Secretary of State shall be bound to retain, subject to the order of the Superior Court  
1988 of Fulton County, as provided in subsection (d) of this Code section, a sufficient  
1989 amount of the deposit to pay the judgment in the action.

1990 (d) ~~In the event~~If that the applicant prevails in such action and ~~in the event~~ that such  
1991 deposits have been held by the Secretary of State for a period of at least two years  
1992 after the applicant's registration has expired or been revoked, then such deposits  
1993 shall be released to the applicant; provided, however, such deposits shall not be  
1994 released at any time while there is pending against the applicant an action (including  
1995 any direct appeal of such action, ~~or~~ an appeal based on a petition for certiorari  
1996 jurisdiction, ~~or~~ a petition for review), of which the Secretary of State has notice, in a  
1997 court of competent jurisdiction in which it is alleged that the applicant is liable for  
1998 damages under this chapter. If a judgment is rendered in such action by which it is  
1999 determined that the applicant is liable for damages under this chapter and the  
2000 applicant has not paid the judgment within ten days of the date the judgment became  
2001 final or if the applicant petitions the Supreme Court of the United States to take  
2002 certiorari jurisdiction over such action and the applicant has not paid the judgment  
2003 within ten days of the date the Supreme Court of the United States denies certiorari  
2004 jurisdiction or within ten days of the date the Supreme Court of the United States  
2005 affirms the judgment, then such person may petition the Superior Court of Fulton

2006 County for an order directing the Secretary of State to reduce such deposit or a  
2007 portion thereof sufficient to pay the judgment to cash or its equivalent and to pay  
2008 such judgment to the extent the judgment may be satisfied with the proceeds of the  
2009 deposit. If there shall remain any residue from the deposit and if at least two years  
2010 have passed since the expiration or revocation of the applicant's registration, the  
2011 Secretary of State shall pay such residue to the applicant, taking a receipt for the  
2012 residue, that shall be filed and recorded with the other papers of the case, unless there  
2013 is pending against the applicant an action (including any direct appeal of such action,  
2014 ~~or~~an appeal based on a petition for certiorari jurisdiction, or a petition for review),  
2015 of which the Secretary of State has notice, in a court of competent jurisdiction in  
2016 which it is alleged that the applicant is liable for damages under this chapter, in which  
2017 case the Secretary of State shall hold or dispose of such residue in accordance with  
2018 the provisions of this subsection relating to the holding or disposing of the entire  
2019 deposit. If more than one final judgment is rendered against the applicant for  
2020 violation of this chapter, the judgment creditors shall be paid in full from such  
2021 deposit or residue thereof, to the extent the deposit or residue is sufficient to pay the  
2022 judgments, in the order in which the judgment creditors petitioned the Superior Court  
2023 of Fulton County.  
2024 (e) Anything in this Code section to the contrary notwithstanding, the Secretary of  
2025 State shall comply with any order of a Georgia or United States court of competent  
2026 jurisdiction to turn over any deposit held by him pursuant to subsection (a) of this  
2027 Code section or the proceeds from any bond held by him pursuant to subsection (a)  
2028 of this Code section to a trustee or receiver for the use and sole benefit of persons on  
2029 whose behalf the Secretary of State holds such deposit or proceeds."

### SECTION 36.

2030 Code Section 43-17-17 of the Official Code of Georgia Annotated, relating to appeals, is  
2031 amended as follows:  
2032  
2033 "“(a) An appeal may be taken from any order of the Secretary of State resulting from  
2034 a hearing held in accordance with Code Section 43-17-16 by any person adversely  
2035 affected thereby to the Superior Court of Fulton County by serving the Secretary of  
2036 State, within 20 days after the date of entry of such order, a ~~written notice of appeal,~~  
2037 copy of a petition for review filed in the Superior Court of Fulton County and signed  
2038 by the appellant~~petitioner~~, stating:  
2039 (1) The order from which the appeal is taken;  
2040 (2) The ground upon which a reversal or modification of the order is sought; and  
2041 (3) A demand for a certified transcript of the record of the order.

2042 (b) Upon receipt of the ~~notice of appeal~~petition for review, the Secretary of State  
2043 shall, within ten days thereafter, make, certify, and deliver to the ~~appellant~~Superior  
2044 Court of Fulton County a transcript of the record of the order from which the appeal  
2045 is taken, provided that the appellant shall pay the reasonable costs of such transcript.  
2046 ~~The appellant, within five days after receipt of the transcript, shall file such transcript~~  
2047 ~~and a copy of the notice of appeal with the clerk of the court.~~ The ~~notice of~~  
2048 ~~appeal~~petition for review and transcript of the record shall constitute appellant's  
2049 complaint. The complaint shall thereupon be entered on the trial calendar of the  
2050 court.

2051 (c) If the order of the Secretary of State shall be reversed, the reviewing court shall  
2052 by its mandate specifically direct the Secretary of State as to further action to be  
2053 taken by the Secretary of State in the matter, including the making and entering of  
2054 an order or orders in connection therewith and the conditions, limitations, or  
2055 restrictions to be therein contained."

2056

### SECTION 37.

2057 Code Section 44-7-56 of the Official Code of Georgia Annotated, relating to appeal and  
2058 possession and payment of rent pending appeal, is amended as follows:

2059 "44-7-56.

2060 Any judgment by the trial court shall be appealable pursuant to Chapters ~~2~~, 3, 6, and  
2061 7 of Title 5, ~~provided that any such appeal shall be filed within seven days of the~~  
2062 ~~date such judgment was entered and provided, further, that, as follows:~~

2063 (1) A copy of the petition for review filed in the reviewing superior or state court  
2064 or the notice of appeal<sup>107</sup> is shall be filed with the clerk of the trial court within  
2065 seven days after the date judgment was entered in the trial court.

2066 (2) ~~the~~The clerk shall immediately notify the trial judge of the petition for  
2067 review or notice of appeal and the trial judge may, within 15 days after the same  
2068 is filed in the trial court, supplement the record with findings of fact and  
2069 conclusions of law which will be considered as a part of the order of the judge  
2070 in that case.

2071 (3) If the judgment of the trial court is against the tenant and the tenant appeals  
2072 this judgment, the tenant shall be required to notify the trial court of his or her  
2073 appeal and to pay into the registry of the reviewing superior or state court all  
2074 sums found by the trial court to be due for rent in order to remain in possession  
2075 of the premises.

2076 (4) The tenant shall also be required to pay all future rent as it becomes due into  
2077 the registry of the trial reviewing superior or state court pursuant to paragraph

2079                             (1) of subsection (a) of Code Section 44-7-54 until the issue has been finally  
2080                             determined on appeal.”

2081                             **SECTION 38.**

2082     Code Section 44-7-115 of the Official Code of Georgia Annotated, relating to foreclosure  
2083     of liens on abandoned or intact mobile homes, is amended by revising paragraph (8) as  
2084     follows:

2085         “Notwithstanding any conflicting provisions in Code Section 44-14-349, all liens  
2086         acquired upon an abandoned mobile home or intact mobile home under Code Section  
2087         44-7-113 shall be foreclosed as follows:

2088         (1) Any proceeding to foreclose a lien on an abandoned mobile home  
2089         determined to be intact by a local government agent shall be instituted in the  
2090         magistrate court of the county where such mobile home is located within one  
2091         year from the time the lien is recorded;

2092         (2) The person desiring to foreclose a lien on an abandoned mobile home  
2093         determined to be intact by a local government agent shall, by certified or  
2094         registered mail or statutory overnight delivery, make a demand upon the  
2095         responsible party in the amount of the lien and for the payment of rent and fees  
2096         accrued after the filing of the lien; provided that the amount of such rent shall  
2097         not exceed \$3.00 per day. If the responsible party cannot be located, notice shall  
2098         be published in a newspaper of general circulation for two consecutive weeks;

2099         (3) (A) If, within 30 days of delivery to the appropriate address of the written  
2100         demand required by paragraph (2) of this Code section or within 30 days after  
2101         the last publication in a newspaper, the responsible party fails to respond to such  
2102         demand or refuses to pay, or if the responsible party cannot be ascertained, the  
2103         landowner may move to foreclose such lien. The person asserting such lien may  
2104         move to foreclose by making an affidavit to a magistrate court showing all facts  
2105         necessary to constitute such lien and the amount claimed to be due. Such  
2106         affidavit shall aver that the notice requirements of Code Section 44-7-113 have  
2107         been complied with, and such affidavit shall also aver that a demand for payment  
2108         has been made and refused or that the identity of the responsible party cannot  
2109         be ascertained. The landowner shall verify the statement by oath or affirmation  
2110         with a signature affixed thereto.

2111         (B) In addition to the filing fees required by Code Section 15-10-80,  
2112         the fee for filing such affidavit shall be \$5.00 per abandoned mobile  
2113         home upon which a lien is asserted;

2114 (4) (A) Upon the filing of such affidavit, the person asserting such lien shall give  
2115 the clerk or judge of the court the address, if known, of all responsible parties  
2116 and the clerk or judge of the court shall serve notice informing such responsible  
2117 parties of a right to a hearing to determine if reasonable cause exists to believe  
2118 that a valid debt exists; that such hearing shall be petitioned for within 30 days  
2119 of receipt of such notice; and that, if no petition for such hearing is filed within  
2120 the time allowed, the lien shall conclusively be deemed a valid one, foreclosure  
2121 thereof allowed, and a public sale pursuant to Code Section 44-7-116 shall be  
2122 authorized.

2123 (B) Any notice required by this paragraph shall be by certified mail or  
2124 statutory overnight delivery or, if the responsible party is unknown, by  
2125 posting such notice at the county courthouse in such place where other  
2126 public notices are posted;

2127 (5) If a petition for a hearing is filed within the time allowed pursuant to  
2128 paragraph (4) of this Code section, the magistrate court shall set such a hearing  
2129 within ten days of filing of the petition. Upon the filing of such petition by a  
2130 party defendant, neither the prosecuting lienholder nor the court may sell the  
2131 mobile home. If, at the hearing, the magistrate court determines there is  
2132 reasonable cause to believe that a valid debt exists, then the person asserting the  
2133 lien shall retain possession of the mobile home or the court shall obtain  
2134 possession of the mobile home, as ordered by the court;

2135 (6) If no petition for a hearing is filed, or if, after a full hearing, the magistrate  
2136 court determines that a valid debt exists, the court shall authorize foreclosure  
2137 upon and sale of the mobile home subject to the lien to satisfy the debt if such  
2138 debt is not otherwise immediately paid. The holder of a security interest in or a  
2139 lien on the mobile home, other than the holder of a lien created by Code Section  
2140 44-7-113, shall have the right, in the order of priority of such security interest  
2141 or lien, to pay the debt and court costs no later than 15 days after a magistrate  
2142 court's order to authorize the foreclosure. If the holder of a security interest or  
2143 lien does so pay the debt and court costs, such person shall have the right to  
2144 possession of the mobile home, and that person's security interest in or lien on  
2145 such mobile home shall be increased by the amount so paid. A magistrate court  
2146 order shall be issued to this effect, and in this instance there shall not be a sale  
2147 of the mobile home. If the debt owed is not timely paid by the holder of a  
2148 security interest or an appeal of the magistrate court decision has not been timely  
2149 filed pursuant to paragraph (8) of this Code section, the court shall issue an order  
2150 authorizing the sale of such mobile home;

2151                             (7) If the magistrate court finds the actions of the person asserting the lien in  
2152                             retaining possession of the mobile home were not taken in good faith, then the  
2153                             court, in its discretion, may award damages to the mobile home owner and to  
2154                             any party which has been deprived of the rightful use of the mobile home; and  
2155                             (8) Any order issued by the magistrate court shall be appealable pursuant to  
2156                             Article 2 of Chapter 3 of Title 5, provided that any such appeal shall be filed  
2157                             within seven days ~~of~~after the date such order was entered and provided, further,  
2158                             that, after the ~~notice of appeal~~petition for review is filed with the clerk of the  
2159                             trialreviewing superior or state court, the clerk of the reviewing superior or state  
2160                             court shall immediately notify the magistrate court of the ~~notice of~~  
2161                             ~~appeal~~petition for review. If the order of the magistrate court is against the  
2162                             responsible party and the responsible party appeals such order, the responsible  
2163                             party shall be required to pay into the registry of the reviewing superior or state  
2164                             court all sums found by the magistrate court to be due in order to remain in  
2165                             possession of the mobile home. The responsible party shall also be required to  
2166                             pay all future rent into the registry of the reviewing superior or state court as it  
2167                             becomes due in such amounts specified in paragraph (2) of this Code section  
2168                             until the issue has been finally determined on appeal.”

### SECTION 39.

2169                             Code Section 47-14-51 of the Official Code of Georgia Annotated, relating to payments  
2170                             to the fund from fees collected in certain civil actions and for recording of instruments  
2171                             pertaining to real estate, records, audit of records, use of sums remitted, and failure of  
2172                             clerk to remit, is amended by revising subsections (a) and (e) as follows:

2173                             “(a) In addition to all other legal costs, the sum of \$1.00 shall be charged and  
2174                             collected in each civil suit, action, case, or proceeding filed in the superior courts or  
2175                             in any other court of this state in which a clerk eligible for membership in this  
2176                             retirement fund is clerk, including, without limiting the generality of the foregoing,  
2177                             all adoptions, charters, ~~certiorari~~petitions for review, applications by a personal  
2178                             representative for leave to sell or reinvest, trade name registrations, applications for  
2179                             change of name, and all other proceedings of a civil nature, filed in the superior  
2180                             courts or other such courts.

2181                             (b) In addition to all other legal costs, the sum of 50 cent(s) shall be charged and  
2182                             collected in addition to any other fees or costs for the processing of all instruments  
2183                             pertaining to real estate filed in the superior courts.

2184                             (c) The clerks shall collect the fees provided for in subsections (a) and (b) of this  
2185                             Code section, and the fees so collected shall be remitted to the board on a monthly

2187 basis or at such time as the board may provide. Such amounts shall be due on the  
2188 first day of the month following the month in which they were collected but shall be  
2189 deemed timely if received by the board on or before the fifteenth day of the month;  
2190 provided, however, that for purposes of calculating late payment penalties, the due  
2191 date shall be the first day of the month. It shall be the duty of the clerks to keep  
2192 accurate records of the amounts due the board under this Code section, and such  
2193 records may be audited by the board at any time. The sums remitted to the board  
2194 under this Code section shall be used for the purposes provided in this chapter.

2195 (d) If the clerk or other authority whose duty it is to collect and remit moneys to the  
2196 fund under subsection (a) of this Code section fails to remit such moneys within 60  
2197 days of the date on which such remittal is due, such moneys shall be delinquent; and  
2198 there shall be imposed, in addition to the principal amount due, a specific penalty in  
2199 the amount of 5 percent of the principal amount per month for each month during  
2200 which the funds continue to be delinquent, provided that such penalty shall not  
2201 exceed a total of 25 percent of the principal due. In addition to such penalty, interest  
2202 shall be charged on the delinquent moneys at the rate of 6 percent per annum from  
2203 the date such moneys became delinquent until they are paid. All moneys which have  
2204 not been paid to the fund within 60 days of the due date shall be delinquent. By  
2205 affirmative vote of all members, the board, upon the payment of the delinquent  
2206 moneys together with interest and for good cause shown, may waive the specific  
2207 penalty otherwise charged under this subsection.

2208 (e) The sum of \$1.00 shall be paid out of the fees charged and collected pursuant to  
2209 Title 15 in each civil suit, action, case, or proceeding filed in the superior courts or  
2210 in any other court of this state in which a clerk eligible for membership in this  
2211 retirement fund is clerk and shall be remitted to the board as provided in subsection  
2212 (c) of this Code section. Such fees shall include, without limiting the generality of  
2213 the foregoing, all adoptions, charters, certiorari petitions for review, applications by  
2214 a personal representative for leave to sell or reinvest, trade name registrations,  
2215 applications for change of name, and all other proceedings of a civil nature filed in  
2216 the superior courts or other such courts."

2217 **SECTION 40.**

2218 Code Section 47-16-61 of the Official Code of Georgia Annotated, relating to payments  
2219 to fund from fees collected in civil actions, duty to record and remit sums collected, and  
2220 penalties on delinquent amounts, is amended by revising subsections (a) and (b) as  
2221 follows:

2222

2223       “(a) In addition to all other legal costs, the sum of \$1.00 shall be charged and  
2224       collected in each civil action, case, or proceeding, including, without limiting the  
2225       generality of the foregoing, all adoptions, charters, ~~certiorari~~~~petitions for review~~,  
2226       applications by personal representative for leave to sell or invest, trade name  
2227       registrations, applications for change of name, and all other proceedings of a civil  
2228       nature filed in the superior courts. The clerks of the superior courts shall collect such  
2229       fees, and the fees so collected shall be remitted to the board quarterly or at such other  
2230       time as the board may provide. It shall be the duty of the clerks of the superior courts  
2231       to keep accurate records of the amounts due the board under this subsection, and  
2232       such records may be audited by the board at any time. The sums remitted to the  
2233       board under this subsection shall be used only for the purposes provided for in this  
2234       chapter.

2235       (b) In addition to all other legal costs, the sum of \$1.00 shall be charged and collected  
2236       in each civil action, case, or proceeding, including, without limiting the generality  
2237       of the foregoing, all adoptions, charters, ~~certiorari~~~~petitions for review~~, applications  
2238       by personal representative for leave to sell or invest, trade name registrations,  
2239       applications for change of name, and all other proceedings of a civil nature filed in  
2240       the state courts and magistrate courts of this state in which the sheriff of the superior  
2241       court also fulfills the function as sheriff of such inferior court. The clerks of such  
2242       state courts and magistrate courts shall collect such fees, and the fees so collected  
2243       shall be remitted to the board quarterly or at such other time as the board may  
2244       provide. It shall be the duty of the clerks of such state courts and magistrate courts  
2245       to keep accurate records of the amounts due the board under this subsection, and  
2246       such records may be audited by the board at any time. The sums remitted to the  
2247       board under this subsection shall be used only for the purposes provided for in this  
2248       chapter.

2249       (c) If the person or authority whose duty it is to collect and remit moneys to the  
2250       secretary-treasurer under subsection (a) or subsection (b) of this Code section shall  
2251       fail to remit such moneys within 60 days of the date on which such remittal is due,  
2252       such moneys shall be delinquent; and there shall be imposed, in addition to the  
2253       principal amount due, a specific penalty in the amount of 5 percent of the principal  
2254       amount per month for each month during which the moneys continue to be  
2255       delinquent, provided that such penalty shall not exceed a total of 25 percent of the  
2256       principal due. In addition to such penalty, interest shall be charged on the delinquent  
2257       moneys at the rate of 6 percent per annum from the date such moneys become  
2258       delinquent until they are paid. By affirmative vote of all the members, the board

upon the payment of the delinquent moneys, together with interest, for good cause shown may waive the specific penalty otherwise charged under this subsection."

SECTION 41.

2262 Code Section 48-5-311 of the Official Code of Georgia Annotated, relating to creation  
2263 of county boards of equalization, duties, review of assessments, and appeals, is amended  
2264 by revising subsection (g) as follows:

2265       “(a) Definition. As used in this Code section, the term “appeal administrator” means  
2266           the clerk of the superior court.

2267 (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.

2281 (a.2) Establishment of boards of equalization.

(1) Except as otherwise provided in this subsection, there is established in each county of 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

2294 board of equalization for failure to perform the duties required under this Code  
2295 section.

2296 (2) Notwithstanding any part of this subsection to the contrary, at any time the  
2297 governing authority of a county makes a request to the grand jury of the county  
2298 for additional alternate members of boards of equalization, the grand jury shall  
2299 appoint the number of alternate members so requested to each board of  
2300 equalization, such number not to exceed a maximum of 21 alternate members  
2301 for each of the boards. The alternate members of the boards shall be duly  
2302 qualified and authorized to serve on any of the boards of equalization of the  
2303 county. The members of each board of equalization may designate a  
2304 chairperson and two vice chairpersons of each such board of equalization. The  
2305 appeal administrator shall have administrative authority in all matters governing  
2306 the conduct and business of the boards of equalization so as to provide oversight  
2307 and supervision of such boards and scheduling of appeals. Any combination of  
2308 members or alternate members of any such board of equalization of the county  
2309 shall be competent to exercise the power and authority of the board. Any person  
2310 designated as an alternate member of any such board of equalization of the  
2311 county shall be competent to serve in such capacity as provided in this Code  
2312 section upon appointment and taking of oath.

2313 (3) Notwithstanding any provision of this subsection to the contrary, in any  
2314 county of this state having a population of 400,000 or more according to the  
2315 United States decennial census of 1990 or any future such census, the governing  
2316 authority of the county, by appropriate resolution adopted on or before  
2317 November 1 of each year, may elect to have selected one additional county  
2318 board of equalization for each 10,000 parcels of real property in the county or  
2319 for any part of a number of parcels in the county exceeding 10,000 parcels. In  
2320 addition to the foregoing, any two members of a county board of equalization  
2321 of the county may decide an appeal from an assessment, notwithstanding any  
2322 other provisions of this Code section. The decision shall be in writing and  
2323 signed by at least two members of the board of equalization; and, except for the  
2324 number of members necessary to decide an appeal, the decision shall conform  
2325 to the requirements of this Code section.

2326 (4) The governing authorities of two or more counties may by intergovernmental  
2327 agreement establish regional boards of equalization for such counties which  
2328 shall operate in the same manner and be subject to all of the requirements of this  
2329 Code section specified for county boards of equalization. The  
2330 intergovernmental agreement shall specify the manner in which the members of

2331 the regional board shall be appointed by the grand jury of each of the counties,  
2332 shall specify which appeal administrator shall have oversight over and  
2333 supervision of such regional board, and shall provide for funding from each  
2334 participating county for the operations of the appeal administrator as required  
2335 by subparagraph (d)(4)(C.1) of this Code section. All hearings and appeals  
2336 before a regional board shall be conducted in the county in which the property  
2337 which is the subject of the hearing or appeal is located.

2338 (b) Qualifications of board of equalization members.

2339 (1) Each person who is, in the judgment of the appointing grand jury, qualified  
2340 and competent to serve as a grand juror, who is the owner of real property  
2341 located in the county where such person is appointed to serve, or, in the case of  
2342 a regional board of equalization, is the owner of real property located in any  
2343 county in the region where such person is appointed to serve, and who is at least  
2344 a high school graduate shall be qualified, competent, and compellable to serve  
2345 as a member or alternate member of the county board of equalization. No  
2346 member of the governing authority of a county, municipality, or consolidated  
2347 government; member of a county or independent board of education; member  
2348 of the county board of tax assessors; employee of the county board of tax  
2349 assessors; or county tax appraiser shall be competent to serve as a member or  
2350 alternate member of the county board of equalization.

2351 (2) (A) Each person seeking to be appointed as a member or alternate member  
2352 of a county board of equalization shall, not later than immediately prior to the  
2353 time of his or her appointment under subsection (c) of this Code section, file  
2354 with the clerk of the superior court a uniform application form which shall be a  
2355 public record. The Council of Superior Court Clerks of Georgia created under  
2356 Code Section 15-6-50.2 shall design the form which indicates the applicant's  
2357 education, employment background, experience, and qualifications for such  
2358 appointment.

2359 (B)

- 2360 (i) Within the first year after a member's initial appointment to the  
2361 board of equalization, each member shall satisfactorily complete not  
2362 less than 40 hours of instruction in appraisal and equalization processes  
2363 and procedures, as prepared and required by the commissioner  
2364 pursuant to Code Section 48-5-13.
- 2365 (ii) The failure of any member to fulfill the requirements of the  
2366 applicable provisions of division (i) of this subparagraph shall render  
2367 such member ineligible to serve on the board; and the vacancy created

2368 thereby shall be filled in the same manner as other vacancies on the  
2369 board are filled.

2370 (C)

2371 (i) Any person appointed to a board of equalization shall be required to  
2372 complete annually a continuing education requirement of at least eight  
2373 hours of instruction in appraisal and equalization procedures, as  
2374 prepared and required by the commissioner pursuant to Code Section  
2375 48-5-13.

2376 (ii) The failure of any member to fulfill the requirements of division (i)  
2377 of this subparagraph shall render such member ineligible to serve on  
2378 the board; and the vacancy created thereby shall be filled in the same  
2379 manner as other vacancies on the board are filled.

2380 (c) Appointment of board of equalization members.

2381 (1) Except as provided in paragraph (2) of this subsection, each member and  
2382 alternate member of the county board of equalization shall be appointed for a  
2383 term of three calendar years next succeeding the date of such member or such  
2384 alternate member's selection. Each term shall begin on January 1.

2385 (2) The grand jury in each county at any term of court preceding November 1  
2386 of 1991 shall select three persons who are otherwise qualified to serve as  
2387 members of the county board of equalization and shall also select three persons  
2388 who are otherwise qualified to serve as alternate members of the county board  
2389 of equalization. The three individuals selected as alternates shall be designated  
2390 as alternate one, alternate two, and alternate three, with the most recent  
2391 appointee being alternate number three, the next most recent appointee being  
2392 alternate number two, and the most senior appointee being alternate number one.  
2393 One member and one alternate shall be appointed for terms of one year, one  
2394 member and one alternate shall be appointed for two years, and one member and  
2395 one alternate shall be appointed for three years. Each year thereafter, the grand  
2396 jury of each county shall select one member and one alternate for three-year  
2397 terms.

2398 (3) If a vacancy occurs on the county board of equalization, the individual  
2399 designated as alternate one shall then serve as a member of the board of  
2400 equalization for the unexpired term. If a vacancy occurs among the alternate  
2401 members, the grand jury then in session or the next grand jury shall select an  
2402 individual who is otherwise qualified to serve as an alternate member of the  
2403 county board of equalization for the unexpired term. The individual so selected

2404 shall become alternate member three, and the other two alternates shall be  
2405 redesignated appropriately.

2406 (4) Within five days after the names of the members and alternate members of  
2407 the county board or boards of equalization have been selected, the clerk of the  
2408 superior court shall cause such appointees to appear before the clerk of the  
2409 superior court for the purpose of taking and executing in writing the oath of  
2410 office. The clerk of the superior court may utilize any means necessary for such  
2411 purpose, including, but not limited to, telephonic or other communication,  
2412 regular first-class mail, or issuance of and delivery to the sheriff or deputy  
2413 sheriff a precept containing the names of the persons so selected. Within ten  
2414 days of receiving the precept, the sheriff or deputy sheriff shall cause the persons  
2415 whose names are written on the precept to be served personally or by leaving  
2416 the summons at their place of residence. The summons shall direct the persons  
2417 named on the summons to appear before the clerk of the superior court on a date  
2418 specified in the summons, which date shall not be later than December 15.

2419 (5) Each member and alternate member of the county board of equalization, on  
2420 the date prescribed for appearance before the clerk of the superior court and  
2421 before entering on the discharge of such member and alternate member's duties,  
2422 shall take and execute in writing before the clerk of the superior court the  
2423 following oath:

2424 "I, , agree to serve as a member of the board of equalization of the County of  
2425 and will decide any issue put before me without favor or affection to any party  
2426 and without prejudice for or against any party. I will follow and apply the laws  
2427 of this state. I also agree not to discuss any case or any issue with any person  
2428 other than members of the board of equalization except at any appeal hearing. I  
2429 shall faithfully and impartially discharge my duties in accordance with the  
2430 Constitution and laws of this state, to the best of my skill and knowledge. So  
2431 help me God.

2432 Signature of member or alternate member"

2433

2434 In addition to the oath of office prescribed in this paragraph, the presiding or  
2435 chief judge of the superior court or the appeal administrator shall charge each  
2436 member and alternate member of the county board of equalization with the law  
2437 and duties relating to such office.

2438 (d) Duties and powers of board of equalization members.

2439                             (1) The county board of equalization shall hear and determine appeals from  
2440                             assessments and denials of homestead exemptions as provided in subsection (e)  
2441                             of this Code section.  
2442                             (2) If, in the course of determining an appeal, the county board of equalization  
2443                             finds reason to believe that the property involved in an appeal or the class of  
2444                             property in which is included the property involved in an appeal is not uniformly  
2445                             assessed with other property included in the digest, the board shall request the  
2446                             respective parties to the appeal to present relevant information with respect to  
2447                             that question. If the board determines that uniformity is not present, the board  
2448                             may order the county board of tax assessors to take such action as is necessary  
2449                             to obtain uniformity, except that, when a question of county-wide uniformity is  
2450                             considered by the board, the board may recommend a partial or total county-  
2451                             wide revaluation only upon a determination by a majority of all the members of  
2452                             the board that the clear and convincing weight of the evidence requires such  
2453                             action. The board of equalization may act pursuant to this paragraph whether  
2454                             or not the appellant has raised the issue of uniformity.  
2455                             (3) The board shall establish procedures which comply strictly with the  
2456                             regulations promulgated by the commissioner pursuant to subparagraph  
2457                             (e)(1)(D) of this Code section for the conducting of appeals before the board.  
2458                             The procedures shall be entered into the minutes of the board, and a copy of the  
2459                             procedures shall be made available to any individual upon request.  
2460                             (4) (A) The appeal administrator shall have oversight over and supervision of  
2461                             all boards of equalization of the county and hearing officers. This oversight and  
2462                             supervision shall include, but not be limited to, requiring appointment of  
2463                             members of county boards of equalization by the grand jury; giving the notice  
2464                             of the appointment of members and alternates of the county board of  
2465                             equalization by the county grand jury as required by Code Section 15-12-81;  
2466                             collecting the names of possible appointees; collecting information from  
2467                             possible appointees as to their qualifications; presenting the names of the  
2468                             possible appointees to the county grand jury; processing the appointments as  
2469                             required by paragraph (4) of subsection (c) of this Code section, including  
2470                             administering the oath of office to the newly appointed members and alternates  
2471                             of the county board of equalization as required by paragraph (5) of such  
2472                             subsection; instructing the newly appointed members and alternates as to the  
2473                             training they must receive and the operations of the county board of  
2474                             equalization; presenting to the grand jury of the county the names of possible  
2475                             appointees to fill vacancies as provided in paragraph (3) of such subsection;

2476 maintaining a roster of board members and alternates, maintaining a record  
2477 showing that the board members and alternates completed training, keeping  
2478 attendance records of board members and alternates for the purpose of payment  
2479 for service, and maintaining the uniform application forms and keeping a record  
2480 of the appointment dates of board members and alternates and their terms in  
2481 office; and informing the county board of equalization that it must establish by  
2482 regulation procedures for conducting appeals before the board as required by  
2483 paragraph (3) of this subsection. Oversight and supervision shall also include  
2484 the scheduling of board hearings, assistance in scheduling hearings before  
2485 hearing officers, and giving notice of the date, time, and place of hearings to the  
2486 taxpayers and the county board of tax assessors and giving notice of the  
2487 decisions of the county board of equalization or hearing officer to the taxpayer  
2488 and county board of tax assessors as required by division (e)(6)(D)(i) of this  
2489 Code section.

2490 (B) The county governing authority shall provide any resources to the  
2491 appeal administrator that are required to be provided by paragraph (7) of  
2492 subsection (e) of this Code section.

2493 (C) The county governing authority shall provide to the appeal  
2494 administrator facilities and secretarial and clerical help for appeals pursuant  
2495 to subsection (e.1) of this Code section.

2496 (C.1) The operations of the appeal administrator under this Code section  
2497 shall, for budgeting purposes, constitute a distinct budget unit within the  
2498 county budget that is separate from the operations of the clerk of the  
2499 superior court. The appeal administrator budget unit shall contain a  
2500 separate line item for the compensation of the appeal administrator for the  
2501 performance of duties required under this Code section as well as separate  
2502 line items for resources, facilities, and personnel as specified under  
2503 subparagraphs (B) and (C) of this paragraph.

2504 (D) The appeal administrator shall maintain any county records of all  
2505 notices to the taxpayer and the taxpayer's attorney, of certified receipts of  
2506 returned or unclaimed mail, and from the hearings before the board of  
2507 equalization and before hearing officers for 12 months after the deadline to  
2508 file any appeal to the superior court expires. If an appeal is not filed to the  
2509 superior court, the appeal administrator is authorized to properly destroy  
2510 any records from the hearings before the county board of equalization or  
2511 hearing officers but shall maintain records of all notices to the taxpayer and  
2512 the taxpayer's attorney and certified receipts of returned or unclaimed mail

2513 for 12 months. If an appeal to the superior court is filed, the appeal  
2514 administrator shall file such appeal and records in the civil action that is  
2515 considered open by the clerk of superior court for such appeal, and such  
2516 records shall become part of the record on appeal in accordance with  
2517 paragraph (2) of subsection (g) of this Code section.

2518 (e) Appeal.

2519 (1) (A) Any taxpayer or property owner as of the last date for filing an appeal  
2520 may elect to file an appeal from an assessment by the county board of tax  
2521 assessors to:

2522 (i) The county board of equalization as to matters of taxability,  
2523 uniformity of assessment, and value, and, for residents, as to denials of  
2524 homestead exemptions pursuant to paragraph (2) of this subsection;

2525 (ii) An arbitrator as to matters of value pursuant to subsection (f) of  
2526 this Code section;

2527 (iii) A hearing officer as to matters of value and uniformity of  
2528 assessment for a parcel of nonhomestead real property with a fair  
2529 market value in excess of \$500,000.00 as shown on the taxpayer's  
2530 annual notice of current assessment under Code Section 48-5-306, and  
2531 any contiguous nonhomestead real property owned by the same  
2532 taxpayer, pursuant to subsection (e.1) of this Code section; or

2533 (iv) A hearing officer as to matters of values or uniformity of  
2534 assessment of one or more account numbers of wireless property as  
2535 defined in subparagraph (e.1)(1)(B) of this Code section with an  
2536 aggregate fair market value in excess of \$500,000.00 as shown on the  
2537 taxpayer's annual notice of current assessment under Code Section 48-  
2538 5-306, pursuant to subsection (e.1) of this Code section.

2539 (A.1) The commissioner shall establish by rule and regulation a uniform  
2540 appeal form that the taxpayer may use. Such uniform appeal form shall  
2541 require the initial assertion of a valuation of the property by the taxpayer.

2542 (A.2) A taxpayer's failure to return real property or whether or not such real  
2543 property was deemed returned for taxation shall not affect such taxpayer's  
2544 right to appeal pursuant to this Code section.

2545 (B) In addition to the grounds enumerated in subparagraph (A) of this  
2546 paragraph, any taxpayer having property that is located within a  
2547 municipality, the boundaries of which municipality extend into more than  
2548 one county, may also appeal from an assessment on such property by the  
2549 county board of tax assessors to the county board of equalization, to a

2550 hearing officer, or to arbitration as to matters of uniformity of assessment  
2551 of such property with other properties located within such municipality, and  
2552 any uniformity adjustments to the assessment that may result from such  
2553 appeal shall only apply for municipal ad valorem tax purposes.

2554 (B.1) The taxpayer or his or her agent or representative may submit in  
2555 support of his or her appeal an appraisal given, signed, and certified as such  
2556 by a real property appraiser as classified by the Georgia Real Estate  
2557 Commission and the Georgia Real Estate Appraisers Board which was  
2558 performed not later than nine months prior to the date of assessment. The  
2559 board of tax assessors shall consider the appraisal upon request. Within 45  
2560 days of the receipt of the taxpayer's appraisal, the board of tax assessors  
2561 shall notify the taxpayer or his or her agent or representative of acceptance  
2562 of the appraisal or shall notify the taxpayer or his or her agent or  
2563 representative of the reasons for rejection.

2564 (B.2) The taxpayer or his or her agent or representative may submit in  
2565 support of his or her appeal the most current report of the sales ratio study  
2566 for the county conducted pursuant to Code Section 48-5-274. The board of  
2567 tax assessors shall consider such sales ratio study upon request of the  
2568 taxpayer or his or her agent or representative.

2569 (B.3) Any assertion of value by the taxpayer on the uniform appeal form  
2570 made to the board of tax assessors shall be subject to later amendment or  
2571 revision by the taxpayer by submission of written evidence to the board of  
2572 tax assessors.

2573 (B.4) If more than one property of a taxpayer is under appeal, the board of  
2574 equalization, arbitrator, or hearing officer, as the case may be, shall, upon  
2575 request of the taxpayer, consolidate all such appeals in one hearing and shall  
2576 announce separate decisions as to each parcel or item of property. Any  
2577 appeal from such a consolidated hearing to the superior court as provided  
2578 in subsection (g) of this Code section shall constitute a single civil action  
2579 and, unless the taxpayer specifically so indicates in the taxpayer's notice of  
2580 appeal, shall apply to all such parcels or items of property.

2581 (B.5) Within ten days of a final determination of value under this Code  
2582 section and the expiration of the 30 day appeal period provided by  
2583 subsection (g) of this Code section, or, as otherwise provided by law, with  
2584 no further option to appeal, the county board of tax assessors shall forward  
2585 such final determination of value to the tax commissioner.

2586 (C) Appeals to the county board of equalization shall be conducted in the  
2587 manner provided in paragraph (2) of this subsection. Appeals to a hearing  
2588 officer shall be conducted in the manner specified in subsection (e.1) of this  
2589 Code section. Appeals to an arbitrator shall be conducted in the manner  
2590 specified in subsection (f) of this Code section. Such appeal proceedings  
2591 shall be conducted between the hours of 8:00 A.M. and 7:00 P.M. on a  
2592 business day. Following the notification of the taxpayer of the date and  
2593 time of such taxpayer's scheduled hearing, the taxpayer shall be authorized  
2594 to exercise a one-time option of changing the date and time of the taxpayer's  
2595 scheduled hearing to a day and time acceptable to the taxpayer and the  
2596 county board of tax assessors. The appeal administrator shall grant  
2597 additional extensions to the taxpayer or the county board of tax assessors  
2598 for good cause shown, or by agreement of the parties.

2599 (D) The commissioner, by regulation, shall adopt uniform procedures and  
2600 standards which shall be followed by county boards of equalization, hearing  
2601 officers, and arbitrators in determining appeals. Such rules shall be updated  
2602 and revised periodically and reviewed no less frequently than every five  
2603 years. The commissioner shall publish and update annually a manual for  
2604 use by county boards of equalization, arbitrators, and hearing officers.

(2) (A) An appeal shall be effected by emailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, 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

2623 paragraph if the taxpayer is dissatisfied with the changes or corrections made by  
2624 the county board of tax assessors.

2625 (B) If no changes or corrections are made in the valuation or decision, the  
2626 county board of tax assessors shall send written notice thereof to the  
2627 taxpayer, to any authorized agent or representative of the taxpayer to whom  
2628 the taxpayer has requested that such notice be sent, and to the county board  
2629 of equalization which notice shall also constitute the taxpayer's appeal to  
2630 the county board of equalization without the necessity of the taxpayer's  
2631 filing any additional notice of appeal to the county board of tax assessors  
2632 or to the county board of equalization. The county board of tax assessors  
2633 shall also send or deliver all necessary papers to the county board of  
2634 equalization. If, however, the taxpayer and the county board of tax  
2635 assessors execute a signed agreement as to valuation, the appeal shall  
2636 terminate as of the date of such signed agreement.

2637 (C) If changes or corrections are made by the county board of tax assessors,  
2638 the board shall notify the taxpayer in writing of such changes. The  
2639 commissioner shall develop and make available to county boards of tax  
2640 assessors a suitable form which shall be used in such notification to the  
2641 taxpayer. The notice shall be sent by regular mail properly addressed to the  
2642 address or addresses the taxpayer provided to the county board of tax  
2643 assessors and to any authorized agent or representative of the taxpayer to  
2644 whom the taxpayer has requested that such notice be sent. If the taxpayer  
2645 is dissatisfied with such changes or corrections, the taxpayer shall, within  
2646 30 days of the date of mailing of the change notice, notify the county board  
2647 of tax assessors to continue the taxpayer's appeal to the county board of  
2648 equalization by emailing, if the county board of tax assessors has adopted  
2649 a written policy consenting to electronic service, or by mailing to or filing  
2650 with the county board of tax assessors a written notice of continuance. The  
2651 county board of tax assessors shall send or deliver the notice of appeal and  
2652 all necessary papers to the county board of equalization.

2653 (D) The written notice to the taxpayer required by this paragraph shall  
2654 contain a statement of the grounds for rejection of any position the taxpayer  
2655 has asserted with regard to the valuation of the property. No addition to or  
2656 amendment of such grounds as to such position shall be permitted before  
2657 the county board of equalization.

2658 (3) (A) In each year, the county board of tax assessors shall review the appeal  
2659 and notify the taxpayer (i) if there are no changes or corrections in the valuation

2660 or decision, or (ii) of any corrections or changes within 180 days after receipt of  
2661 the taxpayer's notice of appeal. If the county board of tax assessors fails to  
2662 respond to the taxpayer within such 180 day period, the property valuation  
2663 asserted by the taxpayer on the property tax return or the taxpayer's notice of  
2664 appeal shall become the assessed fair market value for the taxpayer's property  
2665 for the tax year under appeal. If no such assertion of value was submitted by  
2666 the taxpayer, the appeal shall be forwarded to the county board of equalization.

2667 (B) In any county in which the number of appeals exceeds a number equal  
2668 to or greater than 3 percent of the total number of parcels in the county or  
2669 the sum of the current assessed value of the parcels under appeal is equal to  
2670 or greater than 3 percent of the gross tax digest of the county, the county  
2671 board of tax assessors may be granted an additional 180 day period to make  
2672 its determination and notify the taxpayer. However, as a condition to  
2673 receiving such an extension, the county board of tax assessors shall, at least  
2674 30 days before the expiration of the 180 day period provided under  
2675 subparagraph (A) of this paragraph, notify each affected taxpayer of the  
2676 additional 180 day review period provided in this subparagraph by mail or  
2677 electronic communication, including posting notice on the website of the  
2678 county board of tax assessors if such a website is available. Such additional  
2679 period shall commence immediately following the last day of the 180 days  
2680 provided for under subparagraph (A) of this paragraph. If the county board  
2681 of tax assessors fails to review the appeal and notify the taxpayer of either  
2682 no changes or of any corrections or changes not later than the last day of  
2683 such additional 180 day period, then the most recent property tax valuation  
2684 asserted by the taxpayer on the property tax return or on appeal shall prevail  
2685 and shall be deemed the value established on such appeal unless a time  
2686 extension is granted under subparagraph (C) of this paragraph. If no such  
2687 assertion of value was submitted by the taxpayer, the appeal shall be  
2688 forwarded to the county board of equalization.

2689 (C) Upon a sufficient showing of good cause by reason of unforeseen  
2690 circumstances proven to the commissioner at least 30 days prior to the  
2691 expiration of the additional 180 day period provided for under subparagraph  
2692 (B) of this paragraph, the commissioner shall be authorized, in the  
2693 commissioner's sole discretion, to provide for a time extension beyond the  
2694 end of such additional 180 day period. The duration of any such time  
2695 extension shall be specified in writing by the commissioner and, at least 30  
2696 days prior to the expiration of the extension provided for under

2697 subparagraph (B) of this paragraph, shall be sent to each affected taxpayer  
2698 and shall also be posted on the website of the county board of tax assessors  
2699 if such a website is available. If the county board of tax assessors fails to  
2700 make its review and notify the taxpayer and the taxpayer's attorney not later  
2701 than 30 days before the last day of such time extension, the most recent  
2702 property tax valuation asserted by the taxpayer on the property tax return  
2703 or on the taxpayer's notice of appeal shall prevail and shall be deemed the  
2704 value established on such appeal. If no such assertion of value was  
2705 submitted by the taxpayer, the appeal shall be forwarded to the county board  
2706 of equalization. In addition, the commissioner shall be authorized to  
2707 require additional training or require such other remediation as the  
2708 commissioner may deem appropriate for failure to meet the deadline  
2709 imposed by the commissioner under this subparagraph.

2710 (4) The determination by the county board of tax assessors of questions of  
2711 factual characteristics of the property under appeal, as opposed to questions of  
2712 value, shall be prima-facie correct in any appeal to the county board of  
2713 equalization. However, the board of tax assessors shall have the burden of  
2714 proving its opinions of value and the validity of its proposed assessment by a  
2715 preponderance of evidence.

2716 (5) The county board of equalization shall determine all questions presented to  
2717 it on the basis of the best information available to the board.

2718 (6) (A) Within 15 days of the receipt of the notice of appeal, the county board  
2719 of equalization shall set a date for a hearing on the questions presented and shall  
2720 so notify the taxpayer and the county board of tax assessors in writing. Such  
2721 notice shall be sent by first-class mail to the taxpayer and to any authorized  
2722 agent or representative of the taxpayer to whom the taxpayer has requested that  
2723 such notice be sent. Such notice shall be transmitted by email to the county  
2724 board of tax assessors if such board has adopted a written policy consenting to  
2725 electronic service, and, if it has not, then such notice shall be sent to such board  
2726 by first-class mail or intergovernmental mail. Such written notice shall advise  
2727 each party that he or she may request a list of witnesses, documents, or other  
2728 written evidence to be presented at the hearing by the other party. Such request  
2729 must be made not less than ten days prior to the hearing date, and such  
2730 information shall be provided to the requesting party not less than seven days  
2731 prior to the time of the hearing. Any failure to comply with this requirement  
2732 shall be grounds for an automatic continuance or for exclusion of such witness,  
2733 documents, or other written evidence. A taxpayer may appear before the board

2734 of equalization concerning any appeal in person, by his or her authorized agent  
2735 or representative, or both. The appeal administrator, in his or her discretion and  
2736 with the consent of all parties, may alternatively conduct the hearing by audio  
2737 or video teleconference or any other remote communication medium. The  
2738 taxpayer shall specify in writing to the board of equalization the name of any  
2739 such agent or representative prior to any appearance by the agent or  
2740 representative before the board.

2741 (B) Within 30 days of the date of notification to the taxpayer of the hearing  
2742 required in this paragraph but not earlier than 20 days from the date of such  
2743 notification to the taxpayer, the county board of equalization shall hold such  
2744 hearing to determine the questions presented.

2745 (C) If more than one property of a taxpayer is under appeal, the board of  
2746 equalization shall, upon request of the taxpayer, consolidate all such  
2747 appeals in one hearing and announce separate decisions as to each parcel or  
2748 item of property. Any appeal from such a consolidated board of  
2749 equalization hearing to the superior court as provided in this subsection  
2750 shall constitute a single civil action, and, unless the taxpayer specifically so  
2751 indicates in his or her notice of appeal, shall apply to all such parcels or  
2752 items of property.

2753 (D)  
2754 (i) The board of equalization shall announce its decision on each appeal  
2755 at the conclusion of the hearing held in accordance with subparagraph  
2756 (B) of this paragraph before proceeding with another hearing. The  
2757 decision of the county board of equalization shall be in writing, shall  
2758 be signed by each member of the board, shall specifically decide each  
2759 question presented by the appeal, shall specify the reason or reasons  
2760 for each such decision as to the specific issues of taxability, uniformity  
2761 of assessment, value, or denial of homestead exemptions depending  
2762 upon the specific issue or issues raised by the taxpayer in the course of  
2763 such taxpayer's appeal, shall state that with respect to the appeal no  
2764 member of the board is disqualified from acting by virtue of subsection  
2765 (j) of this Code section, and shall certify the date on which notice of  
2766 the decision is given to the parties. Notice of the decision shall be  
2767 delivered by hand to each party, with written receipt, or given to each  
2768 party by sending a copy of the decision by registered or certified mail  
2769 or statutory overnight delivery to the appellant and by filing the  
2770 original copy of the decision with the county board of tax assessors.

2771           Each of the three members of the county board of equalization must be  
2772           present and must participate in the deliberations on any appeal. A  
2773           majority vote shall be required in any matter. All three members of the  
2774           board shall sign the decision indicating their vote.

2775           (ii) Except as otherwise provided in subparagraph (g)(4)(B) of this  
2776           Code section, the county board of tax assessors shall use the valuation  
2777           of the county board of equalization in compiling the tax digest for the  
2778           county for the year in question and shall indicate such valuation as the  
2779           previous year's value on the property tax notice of assessment of such  
2780           taxpayer for the immediately following year rather than substituting  
2781           the valuation which was changed by the county board of equalization.

2782           (iii)  
2783                 (I) If the county's tax bills are issued before an appeal has been  
2784                 finally determined, the county board of tax assessors shall specify  
2785                 to the county tax commissioner the lesser of the valuation in the  
2786                 last year for which taxes were finally determined to be due on the  
2787                 property or 85 percent of the current year's value, unless the  
2788                 property in issue is homestead property and has been issued a  
2789                 building permit and structural improvements have occurred, or  
2790                 structural improvements have been made without a building  
2791                 permit, in which case, it shall specify 85 percent of the current  
2792                 year's valuation as set by the county board of tax assessors.  
2793                 Depending on the circumstances of the property, this amount shall  
2794                 be the basis for a temporary tax bill to be issued; provided,  
2795                 however, that a nonhomestead owner of a single property valued  
2796                 at \$2 million or more may elect to pay the temporary tax bill which  
2797                 specifies 85 percent of the current year's valuation; or, such owner  
2798                 may elect to pay the amount of the difference between the 85  
2799                 percent tax bill based on the current year's valuation and the tax  
2800                 bill based on the valuation from the last year for which taxes were  
2801                 finally determined to be due on the property in conjunction with  
2802                 the amount of the tax bill based on valuation from the last year for  
2803                 which taxes were finally determined to be due on the property, to  
2804                 the tax commissioner's office. Only the amount which represents  
2805                 the difference between the tax bill based on the current year's  
2806                 valuation and the tax bill based on the valuation from the last year  
2807                 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 appeal administrator shall furnish the county board of equalization necessary facilities and administrative help. The 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 shall consider in the performance of its duties the information furnished by the county board of tax assessors and the taxpayer.

(8) If at any time during the appeal process 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 agreed-upon valuation unless otherwise waived by both parties.

(9) Notwithstanding any other provision of law to the contrary, on any real property tax appeal made under this Code section on and after January 1, 2016,

2845 the assessed value being appealed may be lowered by the deciding body based  
2846 upon the evidence presented but cannot be increased from the amount assessed  
2847 by the county board of tax assessors. This paragraph shall not apply to any  
2848 appeal where the taxpayer files an appeal during a time when subsection (c) of  
2849 Code Section 48-5-299 is in effect for the assessment being appealed.

2850 (e.1) Appeals to hearing officer.

2851 (1) (A) For any dispute involving the value or uniformity of a parcel of  
2852 nonhomestead real property with a fair market value in excess of \$500,000.00  
2853 as shown on the taxpayer's annual notice of current assessment under Code  
2854 Section 48-5-306, at the option of the taxpayer, an appeal may be submitted to  
2855 a hearing officer in accordance with this subsection. If such taxpayer owns  
2856 nonhomestead real property contiguous to such qualified nonhomestead real  
2857 property, at the option of the taxpayer, such contiguous property may be  
2858 consolidated with the qualified property for purposes of the hearing under this  
2859 subsection.

2860 (B)

2861 (i) As used in this subparagraph, the term "wireless property" means  
2862 tangible personal property or equipment used directly for the provision  
2863 of wireless services by a provider of wireless services which is attached  
2864 to or is located underneath a wireless cell tower or at a network data  
2865 center location but which is not permanently affixed to such tower or  
2866 data center so as to constitute a fixture.

2867 (ii) For any dispute involving the values or uniformity of one or more  
2868 account numbers of wireless property as defined in this subparagraph  
2869 with an aggregate fair market value in excess of \$500,000.00 as shown  
2870 on the taxpayer's annual notice of current assessment under Code  
2871 Section 48-5-306, at the option of the taxpayer, an appeal may be  
2872 submitted to a hearing officer in accordance with this subsection.

2873 (2) Individuals desiring to serve as hearing officers and who are either state  
2874 certified general real property appraisers or state certified residential real  
2875 property appraisers as classified by the Georgia Real Estate Commission and  
2876 the Georgia Real Estate Appraisers Board for real property appeals or are  
2877 designated appraisers by a nationally recognized appraiser's organization for  
2878 wireless property appeals shall complete and submit an application, a list of  
2879 counties the hearing officer is willing to serve, disqualification questionnaire,  
2880 and resume and be approved by the Georgia Real Estate Commission and the  
2881 Georgia Real Estate Appraisers Board to serve as a hearing officer. Such board

2882 shall annually publish a list of qualified and approved hearing officers for  
2883 Georgia.

2884 (3) The appeal administrator shall furnish any hearing officer so selected the  
2885 necessary facilities.

2886 (4) An appeal shall be effected by emailing, if the county board of tax assessors  
2887 has adopted a written policy consenting to electronic service, or by filing with  
2888 the county board of tax assessors a notice of appeal to a hearing officer within  
2889 45 days from the date of mailing the notice of assessment pursuant to Code  
2890 Section 48-5-306. A written objection to an assessment of real property or  
2891 wireless property received by a county board of tax assessors stating the  
2892 taxpayer's election to appeal to a hearing officer and showing the location of the  
2893 real property or wireless property contained in the assessment notice shall be  
2894 deemed a notice of appeal by the taxpayer.

2895 (5) The county board of tax assessors may for no more than 90 days review the  
2896 taxpayer's written appeal, and if changes or corrections are made by the county  
2897 board of tax assessors, the board shall notify the taxpayer in writing of such  
2898 changes. Within 30 days of the county board of tax assessors' mailing of such  
2899 notice, the taxpayer may notify the county board of tax assessors in writing that  
2900 the changes or corrections made by the county board of tax assessors are not  
2901 acceptable, in which case, the county board of tax assessors shall, within 30 days  
2902 of the date of mailing of such taxpayer's notification, send or deliver all  
2903 necessary documentation to the appeal administrator, in paper or electronic  
2904 format as agreed upon by the county board of tax assessors and appeal  
2905 administrator, and mail a copy to the taxpayer or, alternatively, forward the  
2906 appeal to the board of equalization if so elected by the taxpayer and such election  
2907 is included in the taxpayer's notification that the changes are not acceptable. If,  
2908 after review, the county board of tax assessors determines that no changes or  
2909 corrections are warranted, the county board of tax assessors shall notify the  
2910 taxpayer of such decision. The taxpayer may elect to forward the appeal to the  
2911 board of equalization by notifying the county board of tax assessors within 30  
2912 days of the mailing of the county board of tax assessor's notice of no changes  
2913 or corrections. Upon the expiration of 30 days following the mailing of the  
2914 county board of tax assessors' notice of no changes or corrections, the county  
2915 board of tax assessors shall certify the notice of appeal and send or deliver all  
2916 necessary documentation to the appeal administrator, in paper or electronic  
2917 format as agreed upon by the county board of tax assessors and appeal  
2918 administrator, for the appeal to the hearing officer, or board of equalization if

2919 elected by the taxpayer, and mail a copy to the taxpayer. If the county board of  
2920 tax assessors fails to respond in writing, either with changes or no changes, to  
2921 the taxpayer within 180 days after receiving the taxpayer's notice of appeal, the  
2922 property valuation asserted by the taxpayer on the property tax return or the  
2923 taxpayer's notice of appeal shall become the assessed fair market value for the  
2924 taxpayer's property for the tax year under appeal.

2925 (6) (A) The appeal administrator shall randomly select from such list a hearing  
2926 officer who shall have experience or expertise in hearing or appraising the type  
2927 of property that is the subject of appeal to hear the appeal, unless the taxpayer  
2928 and the county board of tax assessors mutually agree upon a hearing officer from  
2929 such list. The appeal administrator shall notify the taxpayer and the taxpayer's  
2930 attorney in compliance with subsection (o) of this Code section of the name of  
2931 the hearing officer and transmit a copy of the hearing officer's disqualification  
2932 questionnaire and resume provided for under paragraph (2) of this subsection.  
2933 If no hearing officer is appointed or if no hearing is scheduled within 180 days  
2934 after the county board of tax assessors receives the taxpayer's notice of appeal,  
2935 the property valuation asserted by the taxpayer on the property tax return or the  
2936 taxpayer's notice of appeal shall become the assessed fair market value for the  
2937 taxpayer's property for the tax year under appeal, and subsection (c) of Code  
2938 Section 48-5-299 shall apply. The hearing officer, in conjunction with all  
2939 parties to the appeal, shall set a time and place to hear evidence and testimony  
2940 from both parties. The hearing shall take place in the county where the property  
2941 is located, or such other place as mutually agreed to by the parties and the  
2942 hearing officer. The hearing officer shall provide electronic or written notice to  
2943 the parties personally or by registered or certified mail or statutory overnight  
2944 delivery not less than ten days before the hearing. Such written notice shall  
2945 advise each party that he or she may request a list of witnesses, documents, or  
2946 other written evidence to be presented at the hearing by the other party. Such  
2947 request must be made not less than ten days prior to the hearing date, and such  
2948 information shall be provided to the requesting party not less than seven days  
2949 prior to the time of the hearing. Any failure to comply with this requirement  
2950 shall be grounds for an automatic continuance or for exclusion of such  
2951 witnesses, documents, or other written evidence.

2952 (B) If the appeal administrator, after a diligent search, cannot find a  
2953 qualified hearing officer who is willing to serve, the appeal administrator  
2954 shall transfer the certification of the appeal to the county or regional board  
2955 of equalization and notify the taxpayer and the taxpayer's attorney in

2956 compliance with subsection (o) of this Code section and the county board  
2957 of tax assessors of the transmittal of such appeal.

2958 (7) The hearing officer shall swear in all witnesses, perform the powers, duties,  
2959 and authority of a county or regional board of equalization, and determine the  
2960 fair market value of the real property or wireless property based upon the  
2961 testimony and evidence presented during the hearing. Any issues other than fair  
2962 market value and uniformity raised in the appeal shall be preserved for appeal  
2963 to the superior court. The board of tax assessors shall have the burden of proving  
2964 its opinion of value and the validity of its proposed assessment by a  
2965 preponderance of evidence. At the conclusion of the hearing, the hearing officer  
2966 shall notify both parties of the decision verbally and shall either send both  
2967 parties the decision in writing or deliver the decision by hand to each party, with  
2968 written receipt.

2969 (8) The taxpayer or the board of tax assessors may appeal the decision of the  
2970 hearing officer to the superior court as provided in subsection (g) of this Code  
2971 section.

2972 (9) If, at any time during the appeal under this subsection, the taxpayer and the  
2973 county board of tax assessors execute a signed written agreement on the fair  
2974 market value and any other issues raised: the appeal shall terminate as of the  
2975 date of such signed agreement; the fair market value as set forth in such  
2976 agreement shall become final; and subsection (c) of Code Section 48-5-299 shall  
2977 apply.

2978 (9.1) The provisions contained in this subsection may be waived at any time by  
2979 written consent of the taxpayer and the county board of tax assessors.

2980 (10) Each hearing officer shall be compensated by the county for time expended  
2981 in hearing appeals. The compensation shall be paid at a rate of not less than  
2982 \$100.00 per hour for the first hour and not less than \$25.00 per hour for each  
2983 hour thereafter as determined by the county governing authority or as may be  
2984 agreed upon by the parties with the consent of the county governing authority.  
2985 Compensation pursuant to this paragraph shall be paid from the county treasury  
2986 or, if the parties agree to pay compensation exceeding the minimum  
2987 compensation set by this Code section, by a combination of the parties as agreed  
2988 upon by the parties. The hearing officer shall receive such compensation upon  
2989 certification by the hearing officer of the hours expended in hearing of appeals.  
2990 The attendance at any training required by the commissioner shall be part of the  
2991 qualifications of the hearing officer, and any nominal cost of such training shall  
2992 be paid by the hearing officer.

2993                             (11) The commissioner shall promulgate rules and regulations for the proper  
2994 administration of this subsection, including, but not limited to, qualifications;  
2995 training, including an eight-hour course on Georgia property law, Georgia  
2996 evidence law, preponderance of evidence, burden of proof, credibility of the  
2997 witnesses, and weight of evidence; disqualification questionnaire; selection;  
2998 removal; an annual continuing education requirement of at least four hours of  
2999 instruction in recent legislation, current case law, and updates on appraisal and  
3000 equalization procedures, as prepared and required by the commissioner; and any  
3001 other matters necessary to the proper administration of this subsection. The  
3002 failure of any hearing officer to fulfill the requirements of this paragraph shall  
3003 render such officer ineligible to serve. Such rules and regulations shall also  
3004 include a uniform appeal form which shall require the initial assertion of a  
3005 valuation of the property by the taxpayer. Any such assertion of value shall be  
3006 subject to later revision by the taxpayer based upon written evidence. The  
3007 commissioner shall seek input from all interested parties prior to such  
3008 promulgation.

3009                             (12) If the county's tax bills are issued before the hearing officer has rendered  
3010 his or her decision on property which is on appeal, a temporary tax bill shall be  
3011 issued in the same manner as otherwise required under division (e)(6)(D)(iii) of  
3012 this Code section.

3013                             (13) Upon determination of the final value, the temporary tax bill shall be  
3014 adjusted as required under division (e)(6)(D)(iii) of this Code section.

3015 (f) Nonbinding arbitration.

3016                             (1) As used in this subsection, the term "certified appraisal" means an appraisal  
3017 or appraisal report given, signed, and certified as such by a real property  
3018 appraiser as classified by the Georgia Real Estate Commission and the Georgia  
3019 Real Estate Appraisers Board.

3020                             (2) At the option of the taxpayer, an appeal shall be submitted to nonbinding  
3021 arbitration in accordance with this subsection.

3022                             (3) (A) Following an election by the taxpayer to use the arbitration provisions  
3023 of this subsection, an arbitration appeal shall be effected by the taxpayer by  
3024 emailing, if the county board of tax assessors has adopted a written policy  
3025 consenting to electronic service, or by filing a written notice of arbitration  
3026 appeal with the county board of tax assessors. The notice of arbitration appeal  
3027 shall specifically state the grounds for arbitration. The notice shall be filed  
3028 within 45 days from the date of mailing the notice pursuant to Code Section 48-  
3029 5-306. Within ten days of receipt of a taxpayer's notice of arbitration appeal,

3030 the board of tax assessors shall send to the taxpayer an acknowledgment of  
3031 receipt of the appeal and a notice that the taxpayer shall, within 45 days of the  
3032 date of transmittal of the acknowledgment of receipt of the appeal, provide to  
3033 the county board of tax assessors for consideration a copy of a certified  
3034 appraisal. Failure of the taxpayer to provide such certified appraisal within such  
3035 45 days shall terminate the appeal unless the taxpayer within such 45 day period  
3036 elects to have the appeal immediately forwarded to the board of equalization.  
3037 Prior to appointment of the arbitrator and within 45 days of the acknowledgment  
3038 of the receipt of the appeal, the taxpayer shall provide a copy of the certified  
3039 appraisal as specified in this paragraph to the county board of tax assessors for  
3040 consideration. Within 45 days of receiving the taxpayer's certified appraisal,  
3041 the county board of tax assessors shall either accept the taxpayer's appraisal, in  
3042 which case that value shall become final, or the county board of tax assessors  
3043 shall reject the taxpayer's appraisal by sending within ten days of the date of  
3044 such rejection a written notification by certified mail of such rejection to the  
3045 taxpayer and the taxpayer's attorney of record in compliance with subsection  
3046 (o) of this Code section, in which case the county board of tax assessors shall  
3047 certify within 45 days the appeal to the appeal administrator of the county in  
3048 which the property is located along with any other documentation specified by  
3049 the person seeking arbitration under this subsection, including, but not limited  
3050 to, the staff information from the file used by the county board of tax assessors.  
3051 In the event the taxpayer is not notified of a rejection of the taxpayer's appraisal  
3052 within such ten-day period, the taxpayer's appraisal value shall become final.  
3053 In the event that the county board of tax assessors neither accepts nor rejects the  
3054 value set out in the certified appraisal within 45 days after the receipt of the  
3055 certified appraisal, then the certified appraisal shall become the final value. All  
3056 papers and information certified to the appeal administrator shall become a part  
3057 of the record on arbitration. At the time of certification of the appeal, the county  
3058 board of tax assessors shall serve the taxpayer and the taxpayer's attorney of  
3059 record in compliance with subsection (o) of this Code section, if any, or  
3060 employee with a copy of the certification along with any other papers specified  
3061 by the person seeking arbitration along with the civil action file number assigned  
3062 to the appeal, if any. Within 15 days of filing the certification to the appeal  
3063 administrator, the presiding or chief judge of the superior court of the circuit in  
3064 which the property is located shall issue an order authorizing the arbitration.

3065 (B) At any point, the county board of tax assessors and the taxpayer may  
3066 execute a signed, written agreement establishing the fair market value

3067 without entering into or completing the arbitration process. The fair market  
3068 value as set forth in such agreement shall become the final value.

3069 (C) The arbitration shall be conducted pursuant to the following procedure:

3070 (i) The county board of tax assessors shall, at the time the appeal is  
3071 certified to the appeal administrator under subparagraph (A) of this  
3072 paragraph, provide to the taxpayer a notice of a meeting time and place  
3073 to decide upon an arbitrator, to occur within 60 days after the date of  
3074 sending the rejection of the taxpayer's certified appraisal. Following  
3075 the notification of the taxpayer of the date and time of the meeting, the  
3076 taxpayer shall be authorized to exercise a one-time option of changing  
3077 the date and time of the meeting to a date and time acceptable to the  
3078 taxpayer and the county board of tax assessors. If the parties agree, the  
3079 matter shall be submitted to a single arbitrator chosen by the parties. If  
3080 the parties cannot agree on the single arbitrator, the arbitrator may be  
3081 chosen by the presiding or chief judge of the superior court of the  
3082 circuit in which the property is located within 30 days after the filing  
3083 of a petition by either party;

3084 (ii) In order to be qualified to serve as an arbitrator, a person shall be  
3085 classified as a state certified general real property appraiser or state  
3086 certified residential real property appraiser pursuant to the rules and  
3087 regulations of the Georgia Real Estate Commission and the Georgia  
3088 Real Estate Appraisers Board and shall have experience or expertise in  
3089 appraising the type of property that is the subject of the arbitration;

3090 (iii) The arbitrator, within 30 days after his or her appointment, shall  
3091 set a time and place to hear evidence and testimony from both parties.  
3092 The arbitrator shall provide written notice to the parties personally or  
3093 by registered or certified mail or statutory overnight delivery not less  
3094 than 21 days before the hearing. Such written notice shall advise each  
3095 party that he or she may request a list of witnesses, documents, or other  
3096 written evidence to be presented at the hearing by the other party. Such  
3097 request must be made not less than ten days prior to the hearing date,  
3098 and such information shall be provided to the requesting party not less  
3099 than seven days prior to the time of the hearing. Any failure to comply  
3100 with this requirement shall be grounds for an automatic continuance or  
3101 for exclusion of such witnesses, documents, or other written evidence.  
3102 The arbitrator, in consultation with the parties, may adjourn or  
3103 postpone the hearing. Following notification of the taxpayer of the

3104 date and time of the hearing, the taxpayer shall be authorized to  
3105 exercise a one-time option of changing the date and time of the hearing  
3106 to a date and time acceptable to the taxpayer and the county board of  
3107 tax assessors. The presiding or chief judge of the superior court of the  
3108 circuit in which the property is located may direct the arbitrator to  
3109 proceed promptly with the hearing and the determination of the appeal  
3110 upon application of any party. The hearing shall occur in the county in  
3111 which the property is located or such other place as may be agreed upon  
3112 in writing by the parties;

3113 (iv) At the hearing, the parties shall be entitled to be heard, to present  
3114 documents, testimony, and other matters, and to cross-examine  
3115 witnesses. The arbitrator may hear and determine the controversy upon  
3116 the documents, testimony, and other matters produced notwithstanding  
3117 the failure of a party duly notified to appear;

3118 (v) The arbitrator shall maintain a record of all pleadings, documents,  
3119 testimony, and other matters introduced at the hearing. The arbitrator  
3120 or any party to the proceeding may have the proceedings transcribed  
3121 by a court reporter;

3122 (vi) The provisions of this paragraph may be waived at any time by  
3123 written consent of the taxpayer and the board of tax assessors;

3124 (vii) At the conclusion of the hearing, the arbitrator shall render a  
3125 decision regarding the fair market value of the property subject to  
3126 nonbinding arbitration;

3127 (viii) In order to determine the fair market value, the arbitrator may  
3128 consider the final value for the property submitted by the county board  
3129 of tax assessors at the hearing and the final value submitted by the  
3130 taxpayer at the hearing. The taxpayer shall be responsible for the cost  
3131 of any appraisal by the taxpayer's appraiser;

3132 (ix) The arbitrator shall consider the final value submitted by the  
3133 county board of tax assessors, the final value submitted by the  
3134 taxpayer, and evidence supporting the values submitted by the county  
3135 board of tax assessors and the taxpayer. The arbitrator shall determine  
3136 the fair market value of the property under appeal. The arbitrator shall  
3137 notify both parties of the decision verbally and shall either send both  
3138 parties the decision in writing or deliver the decision by hand to each  
3139 party, with written receipt;

3140                             (x) If the taxpayer's value is closest to the fair market value determined  
3141                             by the arbitrator, the county shall be responsible for the fees and costs  
3142                             of such arbitrator. If the value of the board of tax assessors is closest  
3143                             to the fair market value determined by the arbitrator, the taxpayer shall  
3144                             be responsible for the fees and costs of such arbitrator; and  
3145                             (xi) The board of tax assessors shall have the burden of proving its  
3146                             opinion of value and the validity of its proposed assessment by a  
3147                             preponderance of evidence.

3148                             (4) If the county's tax bills are issued before an arbitrator has rendered his or  
3149                             her decision on property which is on appeal, a temporary tax bill shall be issued  
3150                             in the same manner as otherwise required under division (e)(6)(D)(iii) of this  
3151                             Code section.

3152                             (5) Upon determination of the final value, the temporary tax bill shall be  
3153                             adjusted as required under division (e)(6)(D)(iii) of this Code section.

3154                             (g) Appeals to the superior court.

3155                             (1) The taxpayer or the county board of tax assessors may appeal decisions of  
3156                             the county board of equalization, hearing officer, or arbitrator, as applicable, to  
3157                             the superior court of the county in which the property lies. By mutual written  
3158                             agreement, the taxpayer and the county board of tax assessors may waive an  
3159                             appeal to the county board of equalization and initiate an appeal under this  
3160                             subsection. A county board of tax assessors shall not appeal a decision of the  
3161                             county board of equalization, arbitrator, or hearing officer, as applicable,  
3162                             changing an assessment by 20 percent or less unless the board of tax assessors  
3163                             gives the county governing authority a written notice of its intention to appeal,  
3164                             and, within ten days of receipt of the notice, the county governing authority by  
3165                             majority vote does not prohibit the appeal. In the case of a joint city-county  
3166                             board of tax assessors, such notice shall be given to the city and county  
3167                             governing authorities, either of which may prohibit the appeal by majority vote  
3168                             within the allowed period of time.

3169                             (2) An appeal by the taxpayer as provided in paragraph (1) of this subsection  
3170                             shall be effected by emailing, if the county board of tax assessors has adopted a  
3171                             written policy consenting to electronic service, or by mailing to or filing with  
3172                             the county board of tax assessors a written notice of appeal serving a copy of a  
3173                             petition for review filed in superior court upon a county board of tax assessors.  
3174                             An appeal by the county board of tax assessors shall be effected by giving notice  
3175                             to serving the taxpayer with a copy of a petition for review filed in superior court.  
3176                             The notice to petition for review served on the taxpayer shall be dated and shall

3177 contain the name and the last known address of the taxpayer. The ~~notice of~~  
3178 ~~appealpetition for review~~ shall specifically state the grounds for appeal. The  
3179 ~~noticepetition for review~~ shall be ~~mailed or filed served~~ within 30 days from the  
3180 date on which the decision of the county board of equalization, hearing officer,  
3181 or arbitrator is delivered pursuant to subparagraph (e)(6)(D), paragraph (7) of  
3182 subsection (e.1), or division (f)(3)(C)(ix) of this Code section. Within 45 days  
3183 of receipt of a taxpayer's ~~notice of appealpetition for review~~ and before  
3184 certification of the appeal to the superior court, the county board of tax assessors  
3185 shall send to the taxpayer notice that a settlement conference, in which the  
3186 county board of tax assessors and the taxpayer shall confer in good faith, will  
3187 be held at a specified date and time which shall be no later than 30 days from  
3188 the notice of the settlement conference, and notice of the amount of the filing  
3189 fee, if any, required by the clerk of the superior court. The taxpayer may  
3190 exercise a one-time option to reschedule the settlement conference to a different  
3191 date and time acceptable to the taxpayer during normal business hours. After a  
3192 settlement conference has convened, the parties may agree to continue the  
3193 settlement conference to a later date. If at the end of the 45 day review period  
3194 the county board of tax assessors elects not to hold a settlement conference, then  
3195 the appeal shall terminate and the taxpayer's stated value shall be entered in the  
3196 records of the board of tax assessors as the fair market value for the year under  
3197 appeal and the provisions of subsection (c) of Code Section 48-5-299 shall apply  
3198 to such value. If the taxpayer chooses not to participate in the settlement  
3199 conference, he or she may not seek and shall not be awarded fees and costs at  
3200 such time when the appeal is settled in superior court. If at the conclusion of  
3201 the settlement conference the parties reach an agreement, the settlement value  
3202 shall be entered in the records of the county board of tax assessors as the fair  
3203 market value for the tax year under appeal and the provisions of subsection (c)  
3204 of Code Section 48-5-299 shall apply to such value. If at the conclusion of the  
3205 settlement conference the parties cannot reach an agreement, then written notice  
3206 shall be provided to the taxpayer that the filing fees must be paid by the taxpayer  
3207 to the clerk of the superior court within 20 days of the date of the conference,  
3208 with a copy of the check delivered to the county board of tax assessors.  
3209 Notwithstanding any other provision of law to the contrary, the amount of the  
3210 filing fee for an appeal under this subsection shall be \$25.00. An appeal under  
3211 this subsection shall not be subject to any other fees or additional costs otherwise  
3212 required under any provision of Title 15 or under any other provision of law.  
3213 Immediately following payment of such \$25.00 filing fee by the taxpayer to the

3214 clerk of the superior court, the clerk shall remit the proceeds thereof to the  
3215 governing authority of the county which shall deposit the proceeds into the  
3216 general fund of the county. Within 30 days of receipt of proof of payment to  
3217 the clerk of the superior court, the county board of tax assessors shall certify to  
3218 the clerk of the superior court the notice of appealpetition for review and any  
3219 other papers specified by the person appealing including, but not limited to, the  
3220 staff information from the file used by the county board of tax assessors, the  
3221 county board of equalization, the hearing officer, or the arbitrator. All papers  
3222 and information certified to the clerk shall become a part of the record on appeal  
3223 to the superior court. At the time of certification of the appeal, the county board  
3224 of tax assessors shall serve the taxpayer and his or her attorney of record, if any,  
3225 with a copy of the notice of appealpetition for review and with the civil action  
3226 file number assigned to the appeal. Such service shall be effected in accordance  
3227 with subsection (b) of Code Section 9-11-5.<sup>108</sup> No discovery, motions, or other  
3228 pleadings may be filed by the county board of tax assessors in the appeal until  
3229 such service has been made.

3230 (3) The appeal shall constitute a de novo action. The board of tax assessors shall  
3231 have the burden of proving its opinions of value and the validity of its proposed  
3232 assessment by a preponderance of evidence. Upon a failure of the board of tax  
3233 assessors to meet such burden of proof, the court may, upon motion or sua  
3234 sponte, authorize the finding that the value asserted by the board of tax assessors  
3235 is unreasonable and authorize the determination of the final value of the  
3236 property.

3237 (4) (A) The appeal shall be placed on the court's next available jury or bench  
3238 trial calendar, at the taxpayer's election, following the filing of the appeal unless  
3239 continued by the court. If only questions of law are presented in the appeal, the  
3240 appeal shall be heard as soon as practicable before the court sitting without a  
3241 jury. Each hearing before the court sitting without a jury at the taxpayer's  
3242 election shall be held within 30 days following the date on which the appeal is  
3243 filed with the clerk of the superior court.

3244 (B)  
3245 (i) The county board of tax assessors shall use the valuation of the  
3246 county board of equalization, the hearing officer, or the arbitrator, as  
3247 applicable, in compiling the tax digest for the county.  
3248 (ii)  
3249 (I) If the final determination of value on appeal is less than the  
3250 valuation thus used, the tax commissioner shall be authorized to

3251                   adjust the taxpayer's tax bill to reflect the final value for the year  
3252                   in question.

3253                   (II) If the final determination of value on appeal causes a reduction  
3254                   in taxes and creates a refund that is owed to the taxpayer, it shall  
3255                   be paid by the tax commissioner to the taxpayer, entity, or  
3256                   transferee who paid the taxes with interest, as provided in  
3257                   subsection (m) of this Code section.

3258                   (III) If the taxpayer appeals to the superior court pursuant to this  
3259                   subsection and the final determination of value on appeal is 85  
3260                   percent or less of the valuation set by the county board of  
3261                   equalization, hearing officer, or arbitrator as to any real property,  
3262                   the taxpayer, in addition to the interest provided for in subsection  
3263                   (m) of this Code section, shall recover costs of litigation and  
3264                   reasonable attorney's fees incurred in the action. Any appeal of an  
3265                   award of attorney's fees by the county shall be specifically  
3266                   approved by the governing authority of the county.

3267                   (IV) If the board of assessors appeals to the superior court pursuant  
3268                   to this subsection and the final determination of value on appeal is  
3269                   85 percent or less of the valuation set by the board of assessors as  
3270                   to any real property, the taxpayer, in addition to the interest  
3271                   provided for in subsection (m) of this Code section, shall recover  
3272                   costs of litigation and reasonable attorney's fees incurred in the  
3273                   action. Any appeal of an award of attorney's fees by the county  
3274                   shall be specifically approved by the governing authority of the  
3275                   county.

3276                   (iii) If the final determination of value on appeal is greater than the  
3277                   valuation set by the county board of equalization, hearing officer, or  
3278                   arbitrator, as applicable, causes an increase in taxes, and creates an  
3279                   additional billing, it shall be paid to the tax commissioner as any other  
3280                   tax due along with interest, as provided in subsection (m) of this Code  
3281                   section.

3282                   (g.1) Valuation. The provisions in subsection (c) of Code Section 48-5-299 shall  
3283                   apply to the valuation, unless otherwise waived in writing by both parties, as to:  
3284                   (1) The valuation established or announced by any county board of equalization,  
3285                   arbitrator, hearing officer, or superior court; and  
3286                   (2) Any written agreement or settlement of valuation reached by the county  
3287                   board of tax assessors and the taxpayer as permitted by this Code section.

- 3288 (h) Recording of interviews or hearings.
- 3289 (1) In the course of any assessment, appeal, or arbitration, or any related  
3290 proceeding, the taxpayer shall be entitled to:
- 3291 (A) Have an interview with an officer or employee who is authorized to  
3292 discuss tax assessments of the board of tax assessors relating to the  
3293 valuation of the taxpayer's property subject to such assessment, appeal,  
3294 arbitration, or related proceeding, and the taxpayer may record the  
3295 interview at the taxpayer's expense and with equipment provided by the  
3296 taxpayer, and no such officer or employee of the board of tax assessors may  
3297 refuse to participate in an interview relating to such valuation for reason of  
3298 the taxpayer's choice to record such interview; and
- 3299 (B) Record, at the taxpayer's expense and with equipment provided by the  
3300 taxpayer, all proceedings before the board of equalization or any hearing  
3301 officer.
- 3302 (2) The interview referenced in subparagraph (A) of paragraph (1) of this  
3303 subsection shall be granted to the taxpayer within 30 calendar days from the  
3304 postmark date of the taxpayer's written request for the interview, and the  
3305 interview shall be conducted in the office of the board of assessors. The time  
3306 and date for the interview, within such 30 calendar day period, shall be mutually  
3307 agreed upon between the taxpayer and the taxing authority. The taxing authority  
3308 may extend the time period for the interview an additional 30 days upon written  
3309 notification to the taxpayer.
- 3310 (3) The superior courts of this state shall have jurisdiction to enforce the  
3311 provisions of this subsection directly and without the issue being first brought  
3312 to any administrative procedure or hearing. The taxpayer shall be awarded  
3313 damages in the amount of \$100.00 per occurrence where the taxpayer requested  
3314 the interview, in compliance with this subsection, and the board of assessors  
3315 failed to timely comply; and the taxpayer shall be entitled to recover reasonable  
3316 attorney's fees and expenses of litigation incurred in any action brought to  
3317 compel such interview.
- 3318 (i) Alternate members of boards of equalization.
- 3319 (1) Alternate members of the county board of equalization in the order in which  
3320 selected shall serve:
- 3321 (A) As members of the county board of equalization in the event there is a  
3322 permanent vacancy on the board created by the death, ineligibility, removal  
3323 from the county, or incapacitating illness of a member or by any other  
3324 circumstances. An alternate member who fills a permanent vacancy shall

3325           be considered a member of the board for the remainder of the unexpired  
3326           term; or

3327           (B) In any appeal for which an alternate member is selected for service by  
3328           the appeal administrator.

3329           (2) A hearing panel shall consist of no more than three members at any time,  
3330           one of whom shall serve as the presiding member for the purpose of the hearing.

3331           (j) Disqualification.

3332           (1) No member of the county board of equalization and no hearing officer shall  
3333           serve with respect to any appeal concerning which he or she would be subject  
3334           to a challenge for cause if he or she were a member of a panel of jurors in a civil  
3335           case involving the same subject matter.

3336           (2) The parties to an appeal to the county board of equalization or to a hearing  
3337           officer shall file in writing with the appeal, in the case of the person appealing,  
3338           or, in the case of the county board of tax assessors, with the certificate  
3339           transmitting the appeal, questions relating to the disqualification of members of  
3340           the county board of equalization or hearing officer. Each question shall be  
3341           phrased so that it can be answered by an affirmative or negative response. The  
3342           members of the county board of equalization or hearing officer shall, in writing  
3343           under oath within two days of their receipt of the appeal, answer the questions  
3344           and any question which may be adopted pursuant to subparagraph (e)(1)(D) of  
3345           this Code section. Answers of the county board of equalization or hearing  
3346           officers shall be part of the decision of the board or hearing officer and shall be  
3347           served on each party by first-class mail. Determination of disqualification shall  
3348           be made by the judge of the superior court upon the request of any party when  
3349           the request is made within two days of the response of the board or hearing  
3350           officer to the questions. The time prescribed under subparagraph (e)(6)(A) of  
3351           this Code section shall be tolled pending the determination by the judge of the  
3352           superior court.

3353           (k) Compensation of board of equalization members.

3354           (1) Each member of the county board of equalization shall be compensated by  
3355           the county per diem for time expended in considering appeals. The  
3356           compensation shall be paid at a rate of not less than \$25.00 per day and shall be  
3357           determined by the county governing authority. The attendance at required  
3358           approved appraisal courses shall be part of the official duties of a member of the  
3359           board, and he or she shall be paid for each day in attendance at such courses and  
3360           shall be allowed reasonable expenses necessarily incurred in connection with  
3361           such courses. Compensation pursuant to this paragraph shall be paid from the

3362 county treasury upon certification by the member of the days expended in  
3363 consideration of appeals or attending approved appraisal courses.

3364 (2) Each member of the county board of equalization who participates in online  
3365 training provided by the department shall be compensated by the county at the  
3366 rate of \$25.00 per day for each eight hours of completed training. A member  
3367 shall certify under oath and file an affidavit with the appeal administrator stating  
3368 the number of hours required to complete such training and the number of hours  
3369 which were actually completed. The appeal administrator shall review the  
3370 affidavit and, following approval thereof, shall notify the county governing  
3371 authority. The Council of Superior Court Clerks of Georgia shall develop and  
3372 make available an appropriate form for such purpose. Compensation pursuant  
3373 to this paragraph shall be paid from the county treasury following approval of  
3374 the appeal administrator of the affidavit filed under this paragraph.

3375 (l) Military service. In the event of the absence of an individual from such  
3376 individual's residence because of duty in the armed forces, the filing requirements  
3377 set forth in paragraph (3) of subsection (f) of this Code section shall be tolled for a  
3378 period of 90 days. During this period, any member of the immediate family of the  
3379 individual, or a friend of the individual, may notify the tax receiver or the tax  
3380 commissioner of the individual's absence due to military service and submit written  
3381 notice of representation for the limited purpose of the appeal. Upon receipt of this  
3382 notice, the tax receiver or the tax commissioner shall initiate the appeal.

3383 (m) Interest.

3384 (1) For the purposes of this Code section, any final value that causes a reduction  
3385 in taxes and creates a refund that is owed to the taxpayer shall be paid by the tax  
3386 commissioner to the taxpayer, entity, or transferee who paid the taxes within 60  
3387 days from the date of the final determination of value. Such refund shall include  
3388 interest at the same rate specified in Code Section 48-2-35 which shall accrue  
3389 from the due date of the taxable year in question or the date paid, whichever is  
3390 later, through the date on which the final determination of value was made. In  
3391 no event shall the amount of such interest exceed \$150.00 for homestead  
3392 property or \$5,000.00 for nonhomestead property. Any refund paid after the  
3393 sixtieth day shall accrue interest from the sixty-first day until paid with interest  
3394 at the same rate specified in Code Section 48-2-35. The interest accrued after  
3395 the sixtieth day and forward shall not be subject to the limits imposed by this  
3396 subsection. The tax commissioner shall pay the tax refund and any interest for  
3397 the refund from current collections in the same proportion for each of the  
3398 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. 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. 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 email in portable document format using all email addresses provided by the board of tax assessors. 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.

3420 (o) Notice to representative. When a taxpayer authorizes an agent, representative, or  
3421 attorney in writing to act on the taxpayer's behalf, and a copy of such written  
3422 authorization is provided to the county board of tax assessors, all notices required to  
3423 be provided to the taxpayer under this Code section, including those regarding  
3424 hearing times, dates, certifications, notice of changes or corrections, or other official  
3425 actions, shall be provided to the taxpayer and the authorized agent, representative,  
3426 or attorney. Upon agreement by the county board of tax assessors and the taxpayer's  
3427 agent, representative, or attorney, notices required by this Code section to be sent to  
3428 the taxpayer or the taxpayer's agent, representative, or attorney may be sent by email.  
3429 The failure to comply with this subsection with respect to a notice required under  
3430 this Code section shall result in the tolling of any deadline imposed on the taxpayer  
3431 under this Code section with respect to that notice."

## **SECTION 42.**

3433 This Act shall become effective on July 1, 2023, and shall apply to petitions for review  
3434 filed in superior or state court on or after such date.

3435

**SECTION 43.**

3436 All laws and parts of laws in conflict with this Act are repealed.

DRAFT

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<sup>1</sup> Existing OCGA Chapters 3 and 4 of Title 5 are completely repealed and replaced with a new Chapter 3. Chapter 4 is reserved.

<sup>2</sup> Works in concert with proposed Code Section 5-3-4 (b) (6).

<sup>3</sup> “[A] ‘decision’ is a determination of an adjudicative nature, but the precedents of this Court . . . foreclose the idea that a ‘decision’ always must be characterized by formal adjudicative procedures.” *State v. Int'l Keystone Knights of the Ku Klux Klan, Inc.*, 299 Ga. 392, 399-400 (788 SE2d 455, 462) (2016).

<sup>4</sup> *Int'l Keystone Knights* uses the term “adjudicative in nature” (299 Ga. at 401-405 (788 SE2d at 463-466)), while *Hous. Auth. of City of Augusta v. Gould*, uses “judicial in nature” (305 Ga. 545, 551 (826 SE2d 107, 111-112) (2019). Incorporating both here. “Certiorari is not an appropriate remedy to review or obtain relief from the judgment, decision or action of an inferior judiciary or body rendered in the exercise of legislative, executive, or ministerial functions, as opposed to judicial or quasi-judicial powers.” *Presnell v. McCollum*, 112 Ga. App. 579 (145 SE2d 770) (1965). See *City of Cumming v. Flowers*, 300 Ga. 820, 827 (797 SE2d 846, 852) (2017) (“[F]or generations this Court has held that judicial and quasi-judicial decisions made by city and county governing authorities may be appealed to the superior court by certiorari”). This legislation would replace certiorari with a petition for review where a limited, certiorari-like review is the default standard of review unless a de novo proceeding is required by law. See proposed Code Section 5-3-5 for details regarding the standard of review.

<sup>5</sup> The goal of this paragraph is to draw in administrative decisions and judgments that traverse multiple levels of appeal before getting to superior or state court. Also, some statutes require that all administrative remedies be exhausted before judicial review is available, e.g., existing OCGA §§ 40-5-67.1 (h); 40-5-64 (h); and 40-5-64.1 (g), which refer to the Administrative Procedure Act, which in turn states in existing OCGA § 50-13-19 (a) that “[a]ny person who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review under this chapter.” This paragraph also works in concert with proposed Code Section 5-3-4 (a) to prescribe the jurisdiction of the reviewing superior or state court (“appellate jurisdiction . . . over a *final judgment* of a lower judiciary”). (Emphasis supplied).

<sup>6</sup> Ensures that all judicial and quasi-judicial actors inferior in authority to the superior and state courts are under the appellate jurisdiction of this chapter unless excluded by proposed Code Section 5-3-4 (b).

<sup>7</sup> A “petition for review” will effectively replace all other requests for superior or state court appellate review listed here. This paragraph works in tandem with proposed Code Section 5-3-2 (c) (2).

<sup>8</sup> Existing term “opposite party” (a source of confusion under current law) is eliminated. See, e.g., *City of Sandy Springs Bd. of Appeals v. Traton Homes, LLC*, 341 Ga. App. 551, 557 (801 SE2d 599, 605) (2017), cert. denied (Dec. 11, 2017) ([T]he “opposite party” is the “party *to a dispute*”). The term “respondent” replaces “opposite party” to reference any party adverse to (i.e., opposing) the petitioner and is consistent with the nomenclature used in other appellate proceedings, such as habeas actions.

<sup>9</sup> The courts listed here have a direct appeal to the appellate courts under current law, and will continue to do so under this Act.

<sup>10</sup> See existing OCGA § 5-6-34 (a).

<sup>11</sup> Preserves existing OCGA §§ 5-3-2 (b) and 5-4-1 (b). Existing OCGA Article 6 of Chapter 9 of Title 15 referenced here carves out a definition for certain probate courts in larger counties. This definition is incorporated by reference in paragraph (1) of proposed Code Section 5-3-3. Article 6 probate courts have expanded jurisdiction and a direct appeal to the appellate courts per OCGA § 15-9-123. Also consistent with GA R UNIF PROB CT Rule 2.7.

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<sup>12</sup> Preserves existing OCGA § 5-3-2 (a) (“An appeal shall lie to the superior court from any decision made by the probate court, except an order appointing a temporary administrator”).

<sup>13</sup> This exception is necessary because a municipal ordinance may prescribe certain procedures for bond forfeitures under proposed Code Section 5-3-17 (g).

<sup>14</sup> Codifies *City of Cumming v. Flowers*, 300 Ga. 820, 830 (797 SE2d 846, 855) (2017) (Local ordinances cannot create means of appeal to the superior court, including direct appeals, that are not authorized by statute).

<sup>15</sup> This proposed Code section seeks to establish a limited standard of review (analogous to certiorari review) as the default and de novo review (analogous to a notice of appeal) only when specified in statute. It roughly corresponds to existing OCGA §§ 5-3-29; 5-4-1; 5-4-12.

<sup>16</sup> E.g., existing OCGA § 32-3-11 (Restricting the power of a superior court judge to review and set aside, vacate, and annul a declaration of taking).

<sup>17</sup> Proposed subsection (a) is analogous to certiorari review under existing OCGA § 5-4-1 and adapted from existing OCGA § 5-4-12 (b). The process established in this proposed Code section is generally consistent with the following: “An appeal from an inferior to a superior court for another trial as a de novo investigation was unknown to the common law. Such an appeal . . . is of statutory origin and the mode of procedure is prescribed by statute.” *State Highway Bd. v. Long*, 61 Ga. App. 173 (6 SE2d 130) (1939).

<sup>18</sup> “Review under [existing] OCGA § 5-4-1 is limited to matters raised in the record of the hearing below.” *Baxter v. Fulton-DeKalb Hosp. Auth.*, 764 F. Supp. 1510, 1520 (N.D. Ga. 1991) (citing *Willis v. Jackson*, 148 Ga. App. 432 (251 SE2d 341) (1978)). Proposed subsection (a) is consistent with existing OCGA § 5-4-1 in this regard unless de novo is required by law under proposed subsection (b).

<sup>19</sup> “[Q]uestions of fact and credibility must be accepted unless clearly erroneous.” *Lester v. State*, 226 Ga. App. 373, 375 (487 SE2d 25, 28) (1997).

<sup>20</sup> See, e.g., *Johnson v. State*, 300 Ga. 252, 259 (794 SE2d 60, 66) (2016) (“[T]rial scheduling and requests for continuances are addressed to *the sound discretion of the trial court*, and this Court will not interfere unless there was a clear abuse of discretion”). (Emphasis supplied).

<sup>21</sup> “[A]n appellate court determines evidence sufficiency.” *Lester*, 226 Ga. App. at 376 (487 SE2d at 29).

<sup>22</sup> “The standard of review for a question of law on appeal is de novo.” *Clark v. Clark*, 293 Ga. App. 309, 309 (667 SE2d 103, 104) (2008).

<sup>23</sup> De novo proceedings are required by statute in certain types of appeals, e.g., existing OCGA § 14-2-126 (appeal of a decision by the Secretary of State to refuse to file a document); OCGA § 36-74-28 (appeal of a decision by a local government code enforcement board); and OCGA § 40-5-66 (appeal of certain decisions by the Commissioner of Driver Services). De novo proceedings are prohibited in certain other types of cases, e.g., existing OCGA § 40-13-28 (convictions for a traffic offense); OCGA § 20-2-1160 (local school board decisions); and OCGA § 45-20-9 (state personnel board decisions).

<sup>24</sup> Preserves existing OCGA § 5-4-11. Also reflects that in some cases, a jury trial is not authorized, e.g., OCGA § 20-2-1160 (e).

<sup>25</sup> Consistent with existing OCGA § 5-3-30 (a).

<sup>26</sup> Adapted and expanded from existing OCGA §§ 5-4-6 and 5-6-32.

<sup>27</sup> The 30-day timeline here is consistent with existing OCGA §§ 5-3-20 (a) and 5-4-6 (a).

<sup>28</sup> See *Chadwick v. Gwinnett County*, 257 Ga. 59 (354 SE2d 420) (1987) (Date county commission signed initial document reducing to writing oral denial of request to rezone piece of property, rather than date applicant received official notice of decision through mail, commenced running of 30-day period for filing appeal from commission’s decision).

<sup>29</sup> Consistent with existing OCGA § 5-3-20 (b).

<sup>30</sup> Modeled after the reference to “parties” in the last sentence of existing OCGA § 5-6-37 (“All parties to the proceedings in the lower court shall be parties on appeal”).

<sup>31</sup> This proposed Code section seeks to address the issue of judges being designated a “respondent” or “opposite party” under the existing process. See *Hudson v. Watkins*, 225 Ga. App. 455, 456 (484 SE2d 24, 24-26) (1997) (“The tribunal whose decision is being reviewed, i.e., the respondent, is not, however, the ‘opposite party’ referred to in [existing] OCGA § 5-4-6 . . . In the case of certiorari from a police or mayor’s court, the opposite party is the municipality”).

<sup>32</sup> E.g., a petition for judicial review under the Administrative Procedure Act must state: 1) the nature of the petitioner’s interest; 2) the facts showing that the petitioner is aggrieved by the decision; and 3) the ground upon which the petitioner contends the agency decision should be reversed or modified.

<sup>33</sup> Analogous to the “suggested” format for a notice of appeal in existing OCGA § 5-3-21 (a).

<sup>34</sup> Analogous to existing OCGA § 5-6-43 (c). Works in concert with proposed Code Section 5-3-15 (b).

<sup>35</sup> Suggesting that the petitioner should provide an e-mail address encourages e-filing.

<sup>36</sup> Preserves existing OCGA § 5-4-6 (b).

<sup>37</sup> Adapted and expanded from existing OCGA § 5-4-7.

<sup>38</sup> The use of the term “response” to a “petition” is consistent with the terminology used in Ga. Sup. Ct. R. 42.

<sup>39</sup> Consistent with existing OCGA § 9-11-12 (a) of the Civil Practice Act and preserves existing OCGA § 5-4-7.

<sup>40</sup> Adapted from existing OCGA § 9-11-12 (b) of the Civil Practice Act.

<sup>41</sup> Adapted from existing OCGA § 9-11-12 (a) of the Civil Practice Act

<sup>42</sup> Adapted from existing OCGA § 9-11-12 (b) of the Civil Practice Act

<sup>43</sup> Adapted from existing OCGA § 9-11-15 (a) of the Civil Practice Act.

<sup>44</sup> Preserves existing OCGA § 5-3-28 (b).

<sup>45</sup> Preserves part two of existing OCGA § 5-3-21 (b).

<sup>46</sup> Preserves existing OCGA § 5-3-4.

<sup>47</sup> Preserves existing OCGA § 5-3-5.

<sup>48</sup> Preserves existing OCGA § 5-3-30 (b).

<sup>49</sup> Definition of “perfected” here consistent with Black’s Law Dictionary (11<sup>th</sup> ed. 2019). Defined here to assist self-represented litigants with the legal terminology used.

<sup>50</sup> E.g., existing OCGA § 48-5-311 (g) (2) (“[S]ervice shall be effected in accordance with subsection (b) of Code Section 9-11-5”).

<sup>51</sup> Adapted from existing OCGA §§ 5-6-32 and 17-1-1.

<sup>52</sup> E.g., existing OCGA § 36-1-5 (“In all cases in which a county is a party defendant, service shall be sufficient if perfected upon a majority of the commissioners, in those counties in which the affairs of the county are committed to a county commissioner or a board of county commissioners”).

<sup>53</sup> Adapted from existing OCGA § 9-11-41 (b).

<sup>54</sup> Id.

<sup>55</sup> Preserves existing OCGA §§ 5-3-27 and 5-4-10.

<sup>56</sup> Preserves existing OCGA § 5-4-7.

<sup>57</sup> Various types of cases have different rules for venue under Ga. Const. of 1983, Art. VI, Sec. II, so this language provides for that flexibility. Corresponds to existing OCGA § 5-4-13.

<sup>58</sup> This proposed Code section is an adaptation of existing OCGA § 5-6-41. Great care was taken to be faithful to the original while adapting it for our purposes in plain language.

<sup>59</sup> Analogous to existing OCGA § 5-6-41 (a)-(c).

<sup>60</sup> Id.

<sup>61</sup> Analogous to existing OCGA § 5-6-41 (c), which provides that “[i]n civil cases, the trial court may require the parties to have the proceedings and evidence reported by a court reporter with the costs to be borne equally between them or, if it is determined

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that either or both of the parties are financially unable to pay the costs of reporting or transcribing, the court in its discretion may authorize the trial of the case to go unreported. Therefore, . . . [cit.] there is no law requiring the testimony adduced at a civil trial to be reported.” *Moore v. Ctr. Court Sports & Fitness, LLC*, 289 Ga. App. 596, 599 (657 S.E.2d 548, 551) (2008).

<sup>62</sup> Id.

<sup>63</sup> Analogous to existing OCGA § 5-6-41 (j).

<sup>64</sup> Analogous to existing OCGA § 5-6-41 (d).

<sup>65</sup> Id.

<sup>66</sup> Id.

<sup>67</sup> Id.

<sup>68</sup> Analogous to existing OCGA § 5-6-41 (e).

<sup>69</sup> Id.

<sup>70</sup> Analogous to existing OCGA § 5-6-41 (f).

<sup>71</sup> Analogous to existing OCGA § 5-6-41 (g).

<sup>72</sup> Analogous to existing OCGA § 5-6-41 (f).

<sup>73</sup> Id.

<sup>74</sup> Id.

<sup>75</sup> Analogous to existing OCGA § 5-6-41 (h).

<sup>76</sup> Analogous to existing OCGA § 5-6-41 (i).

<sup>77</sup> Analogous to existing OCGA § 5-3-28 (a).

<sup>78</sup> Id., but gives the clerk of the lower judiciary 30 days instead of ten days to transmit a true copy of the record to the reviewing court.

<sup>79</sup> Adapted from existing OCGA § 5-6-43 (c) (“Where a defendant in a criminal case is confined in jail pending appeal, it shall be the duty of the clerk to state that fact in his certificate; and it shall be the duty of the appellate court to expedite disposition of the case”).

<sup>80</sup> Adapted from existing OCGA § 5-3-22 (a); also codifies *Fain v. Fain*, 179 Ga. App. 285 (346 SE2d 96) (1986).

<sup>81</sup> E.g., existing OCGA § 40-5-66 (a) (“The person filing the appeal [of any decision rendered by the Department of Driver Services] shall not be required to . . . to pay the costs in advance”).

<sup>82</sup> Preserves existing OCGA § 5-3-24.

<sup>83</sup> Preserves existing OCGA § 5-4-5 (a) (payment of costs certificate requirement).

<sup>84</sup> Adapted and greatly expanded existing OCGA §§ 5-4-5; 5-4-19; and 5-4-20.

<sup>85</sup> Some Code sections prohibit an appeal acting as supersedeas, e.g., existing OCGA § 40-5-66 (b), which states that “no appeal [of any decision rendered by the Department of Driver Services] shall act as a supersedeas of any orders or acts of the department;” as well as existing OCGA §§ 52-7-71 (e.1) (1) (B) and 52-7-72.1 (b) (1) (B).

<sup>86</sup> Adapted from existing OCGA § 5-3-22 (b) and generally preserves existing OCGA § 5-4-19.

<sup>87</sup> Id.

<sup>88</sup> E.g., existing OCGA § 40-5-66 (b), which states “[t]he person filing the appeal [of any decision rendered by the Department of Driver Services] shall not be required to post any bond;” as well as existing OCGA §§ 52-7-71 (e.1) (1) (B) and 52-7-72.1 (b) (1) (B).

<sup>89</sup> Preserves the indigency exception from existing OCGA § 5-3-22.

<sup>90</sup> This subsection is meant to address concerns regarding judges frustrating reviews by setting high bonds.

<sup>91</sup> Consistent with existing OCGA § 5-4-20 (a)

<sup>92</sup> Preserves part of existing OCGA § 5-4-5 (b), which states: “The person authorized to receive bond and security may compel the security tendered to swear upon oath the means by which he can fulfill the bond obligation. Such action shall exonerate from liability the person receiving the bond and security.”

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<sup>93</sup> Existing OCGA § 17-6-1, which was amended by S.B. 407 (2018) and S.B. 402 (2020), generally provides for which offenses are bailable and sets forth the requirements for bail hearings and conditions, where applicable.

<sup>94</sup> Preserves existing OCGA § 5-3-23.

<sup>95</sup> Preserves existing OCGA § 5-4-10.

<sup>96</sup> Preserves existing OCGA § 5-3-6, which grants a right of subrogation against the surety's principal. See *Nat'l Sur. Co. of New York v. White*, 21 Ga. App. 471 (94 SE 589) (1917) ("[W]here [a surety] pays the debt of his principal, . . . his sole recourse is against his principal").

<sup>97</sup> Mostly preserves existing OCGA § 5-3-25 except the provision permitting the president or authorized agent of a corporation to file an appeal ("In the case of corporations, the appeal may be entered by the president or any agent thereof managing the case"). Non-attorneys may not represent corporations in a court of record per *Eckles v. Atlanta Tech. Grp., Inc.*, 267 Ga. 801, 804 (485 SE2d 22, 25) (1997).

<sup>98</sup> Adapted and expanded from existing OCGA § 5-4-14.

<sup>99</sup> The primary intent of this proposed Code section is to overrule *Long v. Greenwood Homes, Inc.*, 285 Ga. 560 (679 SE2d 712) (2009).

<sup>100</sup> Preserves existing OCGA § 5-3-7.

<sup>101</sup> Generally preserves OCGA § 5-4-18, which caps assessments for frivolous appeals at 20 percent. Incorporates OCGA § 9-15-14 to add in frivolous defenses for a more balanced policy. See existing OCGA § 5-3-31, which caps assessments for frivolous appeals at 25 percent.

<sup>102</sup> Codifies *Osofsky v. Bd. of Mayor & Comm'r's, City of Avondale Estates*, 237 Ga. App. 404, 404 (515 SE2d 413, 414) (1999) ("[Existing OCGA § 5-3-31] presumes a money award as a basis to calculate the frivolous appeal damages. So[,] it is applicable 'only to cases of appeal wherein the jury returns a verdict for a sum of money.'")

<sup>103</sup> Preserves existing OCGA § 5-4-16.

<sup>104</sup> *Id.*

<sup>105</sup> Preserves existing OCGA § 5-4-17.

<sup>106</sup> *Id.*

<sup>107</sup> Retained "notice of appeal" reference here because it is still an option under Chapter 6 of Title 5.

<sup>108</sup> A carve out for this type of provision requiring a specific manner of service is included in proposed Code Section 5-3-10 (b) ("*Except as otherwise provided by law, service of process under this chapter shall be made in the following manner:*"). (Emphasis supplied).