

House Bill 423 (COMMITTEE SUBSTITUTE)

By: Representatives Howell of the 92<sup>nd</sup>, Lunsford of the 85<sup>th</sup>, Post 2, and Yates of the 85<sup>th</sup>,  
Post 1

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 36-37-6 of the Official Code of Georgia Annotated, relating to the  
2 disposition of municipal property generally, so as to provide that a municipal corporation  
3 may lease municipal property for up to 20 years to a nonprofit corporation for certain  
4 purposes related to recreation; to provide restrictions; to provide for insurance coverage and  
5 indemnity; to provide for the termination of any sum lease; to provide for related matters; to  
6 repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 36-37-6 of the Official Code of Georgia Annotated, relating to the disposition  
10 of municipal property generally, is amended by inserting at the end thereof the following:

11 "(j)(1) Notwithstanding any provision of this Code section or any other law to the  
12 contrary, the governing authority of any municipal corporation is authorized to lease or  
13 enter into a contract for the operation and management, and renewals and extensions  
14 thereof, of any real or personal property comprising fairgrounds, ballfields, golf courses,  
15 swimming pools, or other like property used primarily for recreational purposes for a  
16 period not to exceed 20 years and for a valuable consideration, to a nonprofit corporation  
17 which is qualified as exempt from taxation under the provisions of Section 501(c)(3) of  
18 the Internal Revenue Code of 1986 that will covenant to use and operate the property for  
19 annual regional fair purposes or to continue the recreational purpose to which the  
20 property was formerly used and intended, on a nondiscriminatory basis for the use and  
21 benefit of all citizens of the community; provided, however, that nothing in this  
22 subsection shall have the affect of authorizing alienation of title to such property in  
23 derogation of rights, duties, and obligations imposed by prior deed, contract, or like  
24 document of similar import or that would cause the divesting of title to property dedicated  
25 to public use and not subsequently abandoned; and provided further, that the lessee or  
26 contractee under a management contract shall not mortgage or pledge the property as

1 security for any debt or incur any encumbrance that could result in a lien or claim of lien  
2 against the property. As a condition of any lease or management contract, the lessee or  
3 contractee shall provide sufficient liability insurance, in an amount not less than \$1  
4 million per claim, no aggregate, naming the municipality as a named insured, shall  
5 assume sole responsibility for or incur liability for any injury to person or property caused  
6 by any act of omission of such person while on the property, and shall agree to indemnify  
7 the municipality and hold it harmless from any claim, suit, or demand made by such  
8 person. When the lessee or contractee charges any person to enter or go upon the land  
9 for the purpose of attending the annual regional fair or for attending or participating in  
10 recreational purposes, the consideration received by the municipal corporation for the  
11 lease or management contract shall not be deemed a charge withing the meaning of  
12 Article 2 of Title 51.

13 (2) Any governing authority entering into a lease as provided in paragraph (1) of this  
14 subsection shall have the right unilaterally to terminate such lease after giving three  
15 months notice of its intention to do so.

16 (3) Any lease entered into as provided in paragraph (1) of this subsection shall be  
17 automatically terminated upon conviction by the lessee of any offense involving the  
18 conduct of unlawful activity. In such event, any improvements to the property made by  
19 the lessee shall be forfeited."

## 20 SECTION 2.

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