

Senate Bill 414

By: Senators Staton of the 18th, Chapman of the 3rd, Whitehead, Sr. of the 24th, Carter of the 13th, Grant of the 25th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,  
2 so as to enact the "Rural Georgia Economic Development Act of 2006"; to provide a short  
3 title; to provide definitions; to authorize the creation of community improvement districts by  
4 certain counties in this state; to provide for the governance and operation of such districts;  
5 to provide for certain standards for the creation of a district; to provide for certain public  
6 hearings; to create a board of supervisors for the district and provide for the selection,  
7 powers, duties, responsibilities, terms, and filling of vacancies of members of the board; to  
8 provide for a district manager and other employees and their compensation; to provide for  
9 applicability of laws concerning open meetings and open records; to provide for the  
10 depository of district funds; to provide for fiscal years and budgets; to provide for certain  
11 public disclosures; to provide certain limitations on the purchase and sale of certain public  
12 utilities by a district; to provide for the adoption of certain plans with regard to certain  
13 services; to authorize the issuance of bonds and to provide for certain limitations on the  
14 responsibility for the repayment of such bonds; to provide for the manner of issuance,  
15 refunding, payment, and financing of such bonds; to authorize bond anticipation notes; to  
16 provide for certain short-term loans; to provide for certain trust agreements in connection  
17 with the issuance of bonds; to provide for the venue of certain actions; to provide for  
18 validation of bonds; to prohibit the impairment of bonded obligations; to provide for certain  
19 tax exemptions; to provide for the levy of taxes, fees, and assessments by the district; to  
20 provide for the collection of such taxes, fees, and assessments; to provide for competitive  
21 bids in certain cases; to provide for certain immunities; to provide for certain legal remedies;  
22 to provide that district property is exempt from levy and sale; to provide for the subsequent  
23 expansion, merger, and termination of a district; to provide for related matters; to provide an  
24 effective date; to provide for a contingency; to repeal conflicting laws; and for other  
25 purposes.

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:



1 operating of any project or any part thereof, and to the placing of the same in operation  
2 and to the condemnation of any property incident to such construction and operation.

3 (7) 'District' means a community improvement district created pursuant to this chapter.

4 (8) 'District manager' means the manager of the district.

5 (9) 'District roads' means highways, streets, roads, alleys, sidewalks, landscaping, storm  
6 drains, bridges, and thoroughfares of all kinds and descriptions.

7 (10) 'Elector' means a landowner or qualified elector.

8 (11) 'General obligation bonds' means bonds, notes, certificates, or obligations of the  
9 district which are secured by or provide for their payment by the pledge of the full faith  
10 and credit and taxing power of the district and for payment of which recourse may be had  
11 against the general fund of the district.

12 (12) 'Landowner' means the owner of a freehold estate as appears by the deed records of  
13 the county, including a trustee, private corporation, and owner of a condominium unit.  
14 It shall not include a reversioner, remainderman, mortgagee, or any governmental entity.  
15 Reversioners, remaindermen, mortgagees, and governmental entities shall not be counted  
16 under the provisions of this chapter and need not be notified of proceedings under this  
17 chapter. The term shall include the owner of a ground lease from a governmental entity  
18 which leasehold interest has a remaining term, excluding all renewal options, in excess  
19 of 50 years.

20 (13) 'Project' means and includes real and personal property acquired or held by the  
21 district, including all land, buildings, structures, sanitary and surface water sewers, and  
22 other public property determined by the district to be desirable for the efficient operation  
23 of the district in the performance of its governmental, proprietary, and administrative  
24 functions; provided, however, that such project satisfies the definition of an undertaking,  
25 or more than one undertaking, as set forth in paragraph (4) of Code Section 36-82-61 or  
26 one or more of the purposes of a community improvement district as set forth in Article  
27 IX, Section VII, Paragraph II of the Constitution of this state.

28 (14) 'Qualified elector' means a person who shall possess all of the qualifications for  
29 voting now or hereafter prescribed by the laws of this state and who shall have properly  
30 registered to vote in accordance with Chapter 2 of Title 21.

31 (15) 'Refunding bonds' means bonds issued to refinance outstanding bonds of any type  
32 and the interest and redemption premium thereon.

33 (16) 'Revenue bonds' means obligations of the district which are payable from revenues  
34 derived from sources other than ad valorem taxes on real or tangible personal property  
35 and which do not pledge the property, credit, or general tax revenue of the district.

36 (17) 'Sewer system' means any plant, system, facility, or property, and additions,  
37 extensions, and improvements thereto at any future time constructed or acquired as part

1 thereof, useful or necessary or having the present capacity for future use in connection  
2 with the collection, treatment, purification, or disposal of sewage, including, without  
3 limitation, industrial wastes resulting from any process of industry, manufacture, trade,  
4 or business or from the development of any natural resource. Without limiting the  
5 generality of the foregoing, the term 'sewer system' includes treatment plants, pumping  
6 stations, lift stations, valves, force mains, intercepting sewers, laterals, pressure lines,  
7 mains, and all necessary appurtenances and equipment; all sewer mains, laterals, and  
8 other devices for the reception and collection of sewage from premises connected  
9 therewith; and all real and personal property and any interest therein, rights, easements,  
10 and franchises of any nature relating to any such system and necessary or convenient for  
11 operation thereof.

12 (18) 'Water management and control facilities' means any lakes, canals, ditches,  
13 reservoirs, dams, levees, sluiceways, floodways, pumping stations, or any other works,  
14 structures, or facilities for the conservation, control, development, utilization, and  
15 disposal of water, and any purposes appurtenant, necessary, or incidental thereto. The  
16 term 'water management and control facilities' includes all real and personal property and  
17 any interest therein, rights, easements, and franchises of any nature relating to any such  
18 water management and control facilities or necessary or convenient for the acquisition,  
19 construction, reconstruction, operation, or maintenance thereof.

20 (19) 'Water system' means any plant, system, facility, or property and additions,  
21 extensions, and improvements thereto at any future time constructed or acquired as part  
22 thereof, useful or necessary or having the present capacity for future use in connection  
23 with the development of sources, treatment, or purification and distribution of water.  
24 Without limiting the generality of the foregoing, the term 'water system' includes dams,  
25 reservoirs, storage, tanks, mains, lines, valves, pumping stations, laterals, and pipes for  
26 the purpose of carrying water to the premises connected with such system, and all rights,  
27 easements, and franchises of any nature relating to any such system and necessary or  
28 convenient for the operation thereof.

29 36-76-3.

30 (a) Each county in this state shall be authorized by resolution of the county governing  
31 authority to create one or more community improvement districts within the boundaries of  
32 the county. Such community improvement districts shall be created in accordance with the  
33 provisions of this Code section.

34 (b) The creation of a community improvement district shall be initiated by the filing of a  
35 petition for the creation of such district with the county governing authority. Such petition  
36 shall include the following:

- 1 (1) A metes and bounds description of the external boundaries of the proposed district.  
2 Any real property within the external boundaries of the district which is to be excluded  
3 from the district shall be specifically described and the last known address of the owner  
4 of such property shall be listed. In addition, the petition shall address the impact of the  
5 proposed district on any real property within the external boundaries of the district which  
6 is to be excluded from the district;
- 7 (2) The written consent to the establishment of the district by all landowners whose real  
8 property is to be included in the district or documentation demonstrating that the  
9 petitioner has control by deed, trust agreement, contract, or option of 100 percent of the  
10 real property to be included in the district, and when real property to be included in the  
11 district is owned by a governmental entity and subject to a ground lease as described in  
12 paragraph (12) of Code Section 36-76-2, the written consent by such governmental entity;
- 13 (3) A designation of four persons to be the initial members of the board of supervisors,  
14 who shall serve in that office until replaced by elected members as provided in Code  
15 Section 36-76-4;
- 16 (4) The proposed name of the district;
- 17 (5) A map of the proposed district showing current major trunk water mains and sewer  
18 interceptors and outfalls, if in existence;
- 19 (6) Based upon available data, the proposed timetable for construction of the district  
20 services and the estimated cost of constructing the proposed services. These estimates  
21 shall be submitted in good faith but shall not be binding and may be subject to change;  
22 and
- 23 (7) A designation of the future general distribution, location, and extent of public and  
24 private uses of land proposed for the area within the district as shown on the county land  
25 use plan, if one has been adopted.
- 26 (c) Prior to filing the petition, the petitioner shall pay a filing fee of \$15,000.00 to the  
27 county governing authority.
- 28 (d) After the petition has been filed, the county governing authority shall conduct a public  
29 hearing to consider the relationship of each of the factors specified in subsection (f) of this  
30 Code section. The public hearing shall be held within 45 days after the date on which the  
31 petition is filed unless an extension of time is requested by the petitioner and granted by  
32 the county governing authority.
- 33 (e) The public hearing shall be conducted by the county governing authority and shall  
34 permit the taking of both oral and written testimony and comments on the petition pertinent  
35 to the factors listed in subsection (f) of this Code section. Notice of the public hearing shall  
36 be published in the legal organ of the county at least once a week for four consecutive  
37 weeks immediately prior to the hearing. Such notice shall give the time and place for the

1 hearing, a description of the area to be included in the district, which description shall  
2 include a map showing clearly the area to be covered by the district, and any other relevant  
3 information which the county governing authority may require. The advertisement shall  
4 not be placed in that portion of the newspaper where legal notices and classified  
5 advertisements appear, but shall appear in the main body of the newspaper. All affected  
6 units of local government and the general public shall be given an opportunity to appear  
7 at the hearing and present oral or written comments on the petition.

8 (f) The county governing authority shall consider the entire record of the public hearing  
9 and the following factors and make a determination to grant or deny a petition for the  
10 establishment of a community improvement district:

11 (1) Whether all statements contained within the petition have been found to be true and  
12 correct;

13 (2) Whether the establishment of the district is inconsistent with any applicable element  
14 or portion of the county comprehensive plan;

15 (3) Whether the area of land within the proposed district is of sufficient size, is  
16 sufficiently compact, and is sufficiently contiguous to be developable as one functional  
17 interrelated community;

18 (4) Whether the district is the best alternative available for delivering community  
19 improvement services and facilities to the area that will be served by the district;

20 (5) Whether the community improvement services and facilities of the district will be  
21 incompatible with the capacity and uses of existing local and regional community  
22 improvement services and facilities; and

23 (6) Whether the area that will be served by the district is amenable to separate special-  
24 district government.

25 (g) If the county governing authority determines that the creation of the district is proper  
26 and appropriate, the county governing authority shall pass a resolution approving the  
27 creation of the district which shall include a description of the external boundaries of the  
28 district and any real property within the external boundaries of the district which is to be  
29 excluded, the names of the five initial members of the board of supervisors, and the name  
30 of the district.

31 36-76-4.

32 (a) The board of supervisors shall exercise the powers granted to the district pursuant to  
33 this chapter. The board shall consist of five members. Four members shall be elected as  
34 provided in this Code section and one member shall be appointed by the county governing  
35 authority. Except as otherwise provided in this Code section, each member shall hold  
36 office for a term of four years, as provided in this Code section, and until a successor is

1 chosen and qualified. The members of the board must be residents of the state and citizens  
2 of the United States.

3 (b)(1) Within 90 days following the effective date of the resolution of the county  
4 governing authority establishing the district, there shall be held a meeting of the  
5 landowners of the district for the purpose of electing four supervisors for the district.  
6 Notice of the landowners' meeting shall be published once a week for two consecutive  
7 weeks immediately prior to the election in the legal organ of the county in which the  
8 district is located. The landowners, when assembled at such meeting, shall organize by  
9 electing a chairperson who shall conduct the meeting. The chairperson may be any  
10 person present at the meeting. If the chairperson is a landowner or proxy holder of a  
11 landowner, he or she may nominate candidates and make and second motions.

12 (2) At such meeting, each landowner shall be entitled to cast one vote per acre of land  
13 owned by him or her located within the district for each person to be elected. A  
14 landowner may vote in person or by proxy in writing. Each proxy must be signed by one  
15 of the legal owners of the property for which the vote is cast and must contain the typed  
16 or printed name of the individual who signed the proxy; the street address, legal  
17 description of the property, or tax parcel identification number; and the number of  
18 authorized votes. If the proxy authorizes more than one vote, each property must be  
19 listed and the number of acres of each property must be included. The signature on a  
20 proxy need not be notarized. A fraction of an acre shall be treated as one acre, entitling  
21 the landowner to one vote with respect thereto. The two candidates receiving the highest  
22 number of votes shall be elected for a period commencing upon the date of such election  
23 and ending on December 31 of the fourth-year following such election and the two  
24 candidates receiving the next largest number of votes shall be elected for a period  
25 commencing upon the date of such election and ending on December 31 of the second  
26 year following such election. Thereafter, successors to the members of the first board  
27 elected by landowners shall serve four-year terms of office beginning on January 1  
28 immediately following the date of their election and ending on December 31 of the fourth  
29 year following the date of their election and until their successors are elected and  
30 qualified. Election by landowners shall be held on the first Tuesday in November. All  
31 subsequent landowners' elections shall be announced at a public meeting of the board at  
32 least 90 days prior to the date of the landowners' meeting and shall also be noticed  
33 pursuant to paragraph (1) of this subsection. Instructions on how all landowners may  
34 participate in the election, along with sample proxies, shall be provided during the board  
35 meeting that announces the landowners' meeting. The two candidates receiving the  
36 highest number of votes shall be elected.

1 (3) The county governing authority shall appoint the initial fifth member of the board  
2 who shall serve until December 31 of the second year following such appointment.  
3 Successors to such member shall be appointed not later than December 1 of the year in  
4 which such member's term expires and shall serve a term of four years beginning on  
5 January 1 immediately following the date of his or her appointment and ending on  
6 December 31 of the fourth year following the date of his or her appointment and until his  
7 or her successor is appointed and qualified.

8 (c)(1) Commencing six years after the initial selection of members of the board for a  
9 district of 5,000 acres in area or less or, for a district exceeding 5,000 acres in area, ten  
10 years after the initial selection of members, the position of each member elected by the  
11 landowners whose term has expired shall be filled by a qualified elector of the district  
12 elected by the qualified electors of the district; provided, however, that, if at such time  
13 there are not at least 250 qualified electors in the district, members of the board shall  
14 continue to be elected by landowners.

15 (2) After the sixth or tenth year, as the case may be, once a district reaches 250 qualified  
16 electors, then the positions of four board members who were originally elected by the  
17 landowners shall be filled as their terms expire by qualified electors of the district elected  
18 by the qualified electors of the district for four-year terms. The board member appointed  
19 by the county governing authority shall continue to be appointed by the county governing  
20 authority but shall be required to be a qualified elector of the district.

21 (3) Once a district qualifies to have any of its board members elected by the qualified  
22 electors of the district, the initial and all subsequent elections by the qualified electors of  
23 the district shall be held at the general election in November in accordance with the  
24 provisions of Chapter 2 of Title 21. All such elections shall be held on a nonpartisan  
25 basis.

26 (4) On or before March 1 of each year in which a member of the board is to be elected,  
27 the board shall determine the number of qualified electors in the district as of the  
28 immediately preceding December 31. The board shall use and rely upon the official  
29 records maintained by the county board of registrars in making this determination. Such  
30 determination shall be made at a properly noticed meeting of the board and shall become  
31 a part of the official minutes of the district.

32 (d) Members of the board shall be known as supervisors and, upon entering into office,  
33 shall take and subscribe to an oath of office as prescribed by the probate judge of the  
34 county in which such district is located. They shall hold office for the terms for which they  
35 were elected or appointed and until their successors are chosen and qualified. If, during  
36 the term of office, a vacancy occurs in a position filled by election by the landowners or  
37 qualified electors of the district, the remaining members of the board shall fill the vacancy

1 by an appointment for the remainder of the unexpired term. If, during the term of office,  
2 a vacancy occurs in a position filled by appointment of the county governing authority, the  
3 county governing authority shall fill the vacancy by an appointment for the remainder of  
4 the unexpired term.

5 (e) A majority of the members of the board shall constitute a quorum for the purposes of  
6 conducting its business and exercising its powers and for all other purposes. Action taken  
7 by the district shall be upon a vote of a majority of the members present.

8 (f) As soon as practicable after each election or appointment, the board shall organize by  
9 electing one of its members as chairperson and by electing a secretary, who need not be a  
10 member of the board, and such other officers as the board may deem necessary.

11 (g) The board shall keep a permanent record book entitled 'Record of Proceedings of  
12 (name of district) Community Improvement District,' in which shall be recorded minutes  
13 of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and  
14 any and all corporate acts. The record book shall at reasonable times be opened to  
15 inspection in the same manner as state, county, and municipal records pursuant to Article  
16 4 of Chapter 18 of Title 50. The record book shall be kept at the office or other regular  
17 place of business maintained by the board in the county in which the district is located.

18 (h) Each supervisor shall be entitled to receive for his or her services an amount not to  
19 exceed \$200.00 per meeting of the board of supervisors, not to exceed \$4,800.00 per year  
20 per supervisor, or an amount established by the electors at referendum. In addition, each  
21 supervisor shall receive actual expenses incurred for travel on the official business of the  
22 board.

23 (i) All meetings of the board shall be open to the public and governed by the provisions  
24 of Chapter 14 of Title 50.

25 36-76-5.

26 (a) The board shall employ and fix the compensation of a district manager. The district  
27 manager shall have charge and supervision of the works of the district and shall be  
28 responsible for preserving and maintaining any improvement or facility constructed or  
29 erected pursuant to the provisions of this chapter, for maintaining and operating the  
30 equipment owned by the district, and for performing such other duties as may be prescribed  
31 by the board. It shall not be a conflict of interest for a board member or the district  
32 manager or another employee of the district to be a stockholder, officer, or employee of a  
33 landowner. The district manager may hire or otherwise employ and terminate the  
34 employment of such other persons, including, without limitation, professional, supervisory,  
35 and clerical employees, as may be necessary and authorized by the board. The

1 compensation and other conditions of employment of the officers and employees of the  
2 district shall be as provided by the board.

3 (b) The board shall designate a person who is a resident of the state as treasurer of the  
4 district who shall have charge of the funds of the district. Such funds shall be disbursed  
5 only upon the order or pursuant to the resolution of the board by warrant or check  
6 countersigned by the treasurer and by such other person as may be authorized by the board.  
7 The board may give the treasurer such other or additional powers and duties as the board  
8 may deem appropriate and may fix his or her compensation. The board may require the  
9 treasurer to give a bond in such amount, on such terms, and with such sureties as may be  
10 deemed satisfactory to the board to secure the performance by the treasurer of his or her  
11 powers and duties. The financial records of the board shall be audited by an independent  
12 certified public accountant at least once a year.

13 (c) The board is authorized to select as a depository for its funds any commercial bank or  
14 trust company, mutual savings bank, savings and loan association, or building and loan  
15 association existing under the laws of this state or of the United States and domiciled in this  
16 state upon such terms and conditions as to the payment of interest by such depository upon  
17 the funds so deposited as the board may deem just and reasonable.

18 36-76-6.

19 (a) The fiscal year for the district shall run from January 1 through December 31 of each  
20 year.

21 (b) On or before July 15 of each year, the district manager shall prepare a proposed budget  
22 for the ensuing fiscal year to be submitted to the board for board approval. The proposed  
23 budget shall include at the direction of the board an estimate of all necessary expenditures  
24 of the district for the ensuing fiscal year and an estimate of income to the district from the  
25 taxes and assessments provided in this chapter. The board shall consider the proposed  
26 budget item by item and may either approve the budget as proposed by the district manager  
27 or modify the same in part or in whole. The board shall indicate its approval of the budget  
28 by resolution, which resolution shall provide for a hearing on the budget as approved.  
29 Notice of the hearing on the budget shall be published in the legal organ of the county in  
30 which the district is located once a week for two consecutive weeks immediately preceding  
31 the date of the hearing. The notice shall further contain a designation of the day, time, and  
32 place of the public hearing. At the time and place designated in the notice, the board shall  
33 hear all objections to the budget as proposed and may make such changes as the board  
34 deems necessary. At the conclusion of the budget hearing, the board shall, by resolution,  
35 adopt the budget as finally approved by the board. The budget for the next fiscal year shall  
36 be adopted prior to October 1 of the current fiscal year.

1 (c) At least 60 days prior to adoption, the district board shall submit to the county  
 2 governing authority in which the district is located, for purposes of disclosure and  
 3 information only, the proposed annual budget for the ensuing fiscal year and any proposed  
 4 long-term financial plan or program of the district for future operations.

5 (d) The county governing authority may review the proposed annual budget and any  
 6 long-term financial plan or program and may submit written comments to the board for its  
 7 assistance and information in adopting its annual budget and long-term financial plan or  
 8 program.

9 36-76-7.

10 (a) The district shall take affirmative steps to provide for the full disclosure of information  
 11 relating to the public financing and maintenance of improvements to real property  
 12 undertaken by the district. Such information shall be made available to all existing  
 13 residents and to all prospective residents of the district. The district shall furnish each  
 14 developer of a residential development within the district with sufficient copies of that  
 15 information to provide each prospective initial purchaser of property in that development  
 16 with a copy, and any developer of a residential development within the district, when  
 17 required by law to provide a public offering statement, shall include a copy of such  
 18 information relating to the public financing and maintenance of improvements in the public  
 19 offering statement.

20 (b) The Department of Community Affairs shall keep a current list of districts and their  
 21 disclosures pursuant to this chapter and shall make such studies and reports and take such  
 22 actions as it deems necessary.

23 36-76-8.

24 The district shall have, and the board may exercise, the following powers:

25 (1) To sue and be sued in the name of the district; to adopt and use a seal and authorize  
 26 the use of a facsimile thereof; to acquire by purchase, gift, devise, or otherwise and to  
 27 dispose of real and personal property or any estate therein; and to make and execute  
 28 contracts and other instruments necessary or convenient to the exercise of its powers;

29 (2) To apply for coverage of its employees under the Employees' Retirement System of  
 30 Georgia in the same manner as if such employees were state employees subject to  
 31 necessary action by the district to pay employer contributions;

32 (3) To contract for the services of consultants to perform planning, engineering, legal,  
 33 or other appropriate services of a professional nature. Such contracts shall be subject to  
 34 public bidding or competitive negotiation requirements as set forth in this chapter;

- 1 (4) To borrow money and accept gifts; to apply for and use grants or loans of money or  
2 other property from the United States, the state, a unit of local government, or any person  
3 for any district purposes and enter into agreements required in connection therewith; and  
4 to hold, use, and dispose of such moneys or property for any district purposes in  
5 accordance with the terms of the gift, grant, loan, or agreement relating thereto;
- 6 (5) To adopt rules and orders prescribing the powers, duties, and functions of the officers  
7 of the district; the conduct of the business of the district; the maintenance of records; and  
8 the form of certificates evidencing tax liens and all other documents and records of the  
9 district. The board may also adopt administrative rules with respect to any of the projects  
10 of the district and define the area to be included therein. The board may also adopt  
11 resolutions which may be necessary for the conduct of district business;
- 12 (6) To maintain an office at such place or places as it may designate within the county  
13 in which the district is located;
- 14 (7) To hold, control, and acquire by donation, purchase, or condemnation, or dispose of,  
15 any public easements, dedications to public use, platted reservations for public purposes,  
16 or any reservations for those purposes authorized by this chapter and to make use of such  
17 easements, dedications, or reservations for any of the purposes authorized by this chapter;  
18 When real property in the district is owned by a governmental entity and subject to a  
19 ground lease as described in paragraph (12) of Code Section 36-76-2, to collect ground  
20 rent from landowners pursuant to a contract with such governmental entity;
- 21 (8) To lease as lessor or lessee to or from any person, firm, corporation, association, or  
22 body, public or private, any projects of the type that the district is authorized to undertake  
23 and facilities or property of any nature for the use of the district to carry out any of the  
24 purposes authorized by this chapter;
- 25 (9) To borrow money and issue bonds, certificates, warrants, notes, or other evidence of  
26 indebtedness as provided in this chapter; to levy such tax and special assessments as may  
27 be authorized; and to charge, collect, and enforce fees and other user charges;
- 28 (10) To raise, by user charges or fees authorized by resolution of the board, amounts of  
29 money which are necessary for the conduct of the district activities and services and to  
30 enforce their receipt and collection in the manner prescribed by resolution not  
31 inconsistent with law;
- 32 (11) To cooperate with or contract with other governmental agencies as may be  
33 necessary, convenient, incidental, or proper in connection with any of the powers, duties,  
34 or purposes authorized by this chapter;
- 35 (12) To assess and impose upon lands in the district ad valorem taxes as provided by this  
36 chapter;

1 (13) To determine, order, levy, impose, collect, and enforce special assessments pursuant  
2 to this chapter;

3 (14) To exercise all of the powers necessary, convenient, incidental, or proper in  
4 connection with any of the powers, duties, or purposes authorized by this chapter; and

5 (15) To exercise such special powers as may be authorized by this chapter.

6 36-76-9.

7 (a) The district shall have, and the board may exercise, subject to the regulatory  
8 jurisdiction and permitting authority of all applicable governmental bodies, agencies, and  
9 special districts having authority with respect to any area included therein, any or all of the  
10 following special powers relating to public improvements and community facilities  
11 authorized by this chapter:

12 (1) To finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend,  
13 equip, operate, and maintain systems, facilities, and basic infrastructures for the  
14 following:

15 (A) Water management and control for the lands within the district and to connect  
16 some or any of such facilities with roads and bridges;

17 (B) Water supply, sewer, and waste-water management, reclamation, and reuse or any  
18 combination thereof, and to construct and operate connecting intercepting or outlet  
19 sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and  
20 under any street, alley, highway, or other public place or ways, and to dispose of any  
21 effluent, residue, or other by-products of such system or sewer system;

22 (C) Bridges or culverts that may be needed across any drain, ditch, canal, floodway,  
23 holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over  
24 levees and embankments, and to construct any and all of such works and improvements  
25 across, through, or over any public right of way, highway, grade, fill, or cut;

26 (D) District roads equal to or exceeding the specifications of the county in which such  
27 district roads are located and street lights;

28 (E) Buses, trolleys, transit shelters, ridesharing facilities and services, parking  
29 improvements, and related signage;

30 (F) Investigation and remediation costs associated with the cleanup of actual or  
31 perceived environmental contamination within the district under the supervision or  
32 direction of a competent governmental authority unless the covered costs benefit any  
33 person who is a landowner within the district and who caused or contributed to the  
34 contamination;

1 (G) Conservation areas, mitigation areas, and wildlife habitat, including the  
 2 maintenance of any plant or animal species, and any related interest in real or personal  
 3 property; and

4 (H) Any other project inside or outside the boundaries of a district when the project is  
 5 the subject of an intergovernmental agreement between the district and a governmental  
 6 entity and is consistent with the local government comprehensive plan of the local  
 7 government within which the project is to be located;

8 (2) After the board has obtained the consent of the local government within the  
 9 jurisdiction of which a power specified in this paragraph is to be exercised, to plan,  
 10 establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and  
 11 maintain additional systems and facilities for:

12 (A) Parks and facilities for indoor and outdoor recreational, cultural, and educational  
 13 uses;

14 (B) Fire prevention and control, including fire stations, water mains and plugs, fire  
 15 trucks, and other vehicles and equipment;

16 (C) School buildings and related structures, which may be leased, sold, or donated to  
 17 the school district, for use in the educational system when authorized by the local  
 18 school board;

19 (D) Security, including, but not limited to, guardhouses, fences and gates, electronic  
 20 intrusion-detection systems, and patrol cars, when authorized by proper governmental  
 21 agencies; except that the district may not exercise any police power but may contract  
 22 with the appropriate local government agencies for an increased level of such services  
 23 within the district boundaries;

24 (E) Control and elimination of mosquitoes and other arthropods of public health  
 25 importance; and

26 (F) Waste collection and disposal; and

27 (3)(A) To adopt rules necessary for the district to enforce certain deed restrictions  
 28 pertaining to the use and operation of real property within the district. For the purpose  
 29 of this paragraph, the term 'deed restrictions' shall mean those covenants, conditions,  
 30 and restrictions contained in any applicable declarations of covenants and restrictions  
 31 that govern the use and operation of real property within the district and, for which  
 32 covenants, conditions, and restrictions, there is no homeowner's association or property  
 33 owners' association having respective enforcement powers.

34 (B) Within 60 days after such rules take effect, the district shall record a notice of rule  
 35 adoption stating generally what rules were adopted and where a copy of the rules may  
 36 be obtained. Districts may impose fines for violations of such rules and enforce such

1 rules and fines in the superior court of the county in which the district is located  
2 through injunctive relief.

3 36-76-10.

4 (a) No district may purchase or sell a water, sewer, or waste-water reuse utility that  
5 provides service to the public for compensation, or enter into a waste-water facility  
6 privatization contract for a waste-water facility, until the board has held a public hearing  
7 on the purchase, sale, or waste-water facility privatization contract and made a  
8 determination that the purchase, sale, or waste-water facility privatization contract is in the  
9 public interest. In determining if the purchase, sale, or waste-water facility privatization  
10 contract is in the public interest, the district shall consider, at a minimum, the following:

11 (1) The most recent available income and expense statement for the utility;

12 (2) The most recent available balance sheet for the utility, listing assets and liabilities and  
13 clearly showing the amount of contributions-in-aid-of-construction and the accumulated  
14 depreciation thereon;

15 (3) A statement of the existing rate base of the utility for regulatory purposes;

16 (4) The physical condition of the utility facilities being purchased, sold, or subject to a  
17 waste-water facility privatization contract;

18 (5) The reasonableness of the purchase, sale, or waste-water facility privatization  
19 contract price and terms;

20 (6) The positive and negative impacts of the purchase, sale, or waste-water facility  
21 privatization contract on utility customers;

22 (7) Any additional investment required and the ability and willingness of the purchaser  
23 or the private firm under a waste-water facility privatization contract to make that  
24 investment, whether the purchaser is the district or the entity purchasing the utility from  
25 the district. In the case of a waste-water facility privatization contract, the terms and  
26 conditions on which the private firm will provide capital investment and financing or a  
27 combination thereof for contemplated capital replacements, additions, expansions, and  
28 repairs. The district shall give significant weight to this criteria;

29 (8) The alternatives to the purchase, sale, or waste-water facility privatization contract  
30 and the potential impact on utility customers if the purchase, sale, or waste-water facility  
31 privatization contract is not made; and

32 (9) The ability of the purchaser or the private firm under a waste-water facility  
33 privatization contract to provide and maintain high-quality and cost-effective utility  
34 service, whether the purchaser is the district or the entity purchasing the utility from the  
35 district. In the case of a waste-water facility privatization contract, the district shall give

1 significant weight to the technical expertise and experience of the private firm in carrying  
2 out the obligations specified in the waste-water facility privatization contract.

3 (b) All moneys paid by a private firm to a district pursuant to a waste-water facility  
4 privatization contract shall be used for the purpose of reducing or offsetting property taxes,  
5 waste-water service rates, or debt reduction or making infrastructure improvements or  
6 capital asset expenditures or other public purpose; provided, however, that nothing in this  
7 subsection shall preclude the district from using all or part of the moneys for the purpose  
8 of the district's qualification for relief from the repayment of federal grant awards  
9 associated with the waste-water system as may be required by federal law or regulation.

10 (c) The district shall prepare a statement showing that the purchase, sale, or waste-water  
11 facility privatization contract is in the public interest, including a summary of the  
12 purchaser's or private firm's experience in water, sewer, or waste-water reuse utility  
13 operation and a showing of financial ability to provide the service, whether the purchaser  
14 or private firm is the district or the entity purchasing the utility from the district.

15 36-76-11.

16 In the event that the board assumes the responsibility for providing water management and  
17 control for the district as provided in Code Section 36-76-10 which is to be financed by  
18 special assessments, the board shall proceed to adopt water management and control plans,  
19 assess for benefits, and apportion and levy special assessments as follows:

20 (1) The board shall cause to be made by the district's engineer, or such other engineer  
21 or engineers as the board may employ for that purpose, complete and comprehensive  
22 water management and control plans for the lands located within the district that will be  
23 improved in any part or in whole by any system of facilities that may be outlined and  
24 adopted, and the engineer shall make a report in writing to the board with maps and  
25 profiles of such surveys and an estimate of the cost of carrying out and completing the  
26 plans;

27 (2) Upon the completion of such plans, the board shall hold a hearing to hear objections,  
28 shall give notice of the time and place fixed for such hearing by publication once each  
29 week for two consecutive weeks immediately preceding such hearing in the legal organ  
30 of the county in which the district is located, and shall permit the inspection of the plans  
31 at the office of the district by all interested persons. All objections to the plans shall be  
32 filed at or before the time fixed in the notice for the hearing and shall be in writing;

33 (3) After the hearing, the board shall consider the proposed plans and any objections to  
34 them and may modify, reject, or adopt the plans or continue the hearing to a day certain  
35 for further consideration of the proposed plans or modifications of the plans; and

1 (4) When the board approves a plans, a resolution shall be adopted and a certified copy  
2 of such resolution shall be filed in the office of the secretary and incorporated by him or  
3 her into the records of the district.

4 36-76-12.

5 In addition to the other powers provided for in this chapter, and not in limitation thereof,  
6 the district shall have the power at any time, and from time to time after the issuance of any  
7 bonds of the district shall have been authorized, to borrow money for the purposes for  
8 which such bonds are to be issued in anticipation of the receipt of the proceeds of the sale  
9 of such bonds and to issue bond anticipation notes in a principal sum not in excess of the  
10 authorized maximum amount of such bond issue. Such notes shall be in such denomination  
11 or denominations, bear interest at such rate as the board may determine, mature at such  
12 time or times not later than five years from the date of issuance, and be in such form and  
13 executed in such manner as the board shall prescribe. Such notes may be sold at either  
14 public or private sale or, if such notes shall be renewal notes, may be exchanged for notes  
15 then outstanding on such terms as the board shall determine. Such notes shall be paid from  
16 the proceeds of such bonds when issued. The board may, in its discretion, in lieu of  
17 retiring the notes by means of bonds, retire them by means of current revenues or from any  
18 taxes or assessments levied for the payment of such bonds; but in such event a like amount  
19 of the bonds authorized shall not be issued.

20 36-76-13.

21 The district at any time may obtain loans, in such amount and on such terms and conditions  
22 as the board may approve, for the purpose of paying any of the expenses of the district or  
23 any costs incurred or that may be incurred in connection with any of the projects of the  
24 district, which loans shall bear such interest as the board may determine, and may be  
25 payable from and secured by a pledge of such funds, revenues, taxes, and assessments as  
26 the board may determine, subject, however, to the provisions contained in any proceeding  
27 under which bonds were theretofore issued and are then outstanding. For the purpose of  
28 defraying such costs and expenses, the district may issue negotiable notes, warrants, or  
29 other evidences of debt to be payable at such times, to bear such interest as the board may  
30 determine, and to be sold or discounted at such price or prices not less than 95 percent of  
31 par value and on such terms as the board may deem advisable. The board shall have the  
32 right to provide for the payment thereof by pledging the whole or any part of the funds,  
33 revenues, taxes, and assessments of the district.

1 36-76-14.

2 Bonds issued under the provisions of this chapter shall not constitute a debt or a pledge of  
3 the faith and credit of the State of Georgia or the county in which the district is located; but  
4 such bonds shall be payable from the taxes, fees, assessments, rentals, revenue, earnings,  
5 and funds of the district as provided in the resolution, trust agreement, or indenture  
6 authorizing the issuance and securing the payment of such bonds; and the issuance of such  
7 bonds shall not directly, indirectly, or contingently obligate the state or the county to levy  
8 or pledge any form of taxation whatever for the payment thereof. No holder of any bond  
9 or receiver or trustee in connection therewith shall have the right to enforce the payment  
10 thereof against any property of the state or of the county, nor shall any such bond constitute  
11 a charge, lien, or encumbrance, legal or equitable, upon any such property. All such bonds  
12 shall contain on their face a recital setting forth substantially the foregoing provisions of  
13 this Code section.

14 36-76-15.

15 In the discretion of the district, any issue of bonds may be secured by an agreement or  
16 indenture made by the district with a corporate trustee, which may be any trust company  
17 or bank having the powers of a trust company inside or outside the State of Georgia. Such  
18 trust agreement or indenture may pledge and assign taxes, assessments, rents, fees, charges,  
19 revenues, and earnings to be received by the district. The resolution providing for the  
20 issuance of bonds and such trust agreement or indenture may contain provisions for  
21 protecting and enforcing the rights and remedies of the bondholders, including the right of  
22 appointment of a receiver upon default of the payment of any principal or interest  
23 obligation and the right of any receiver or trustee to enforce collection of any taxes,  
24 assessments, rents, fees, charges, or revenues for use of the project or projects necessary  
25 to pay all costs of operation and all reserves provided for, all principal and interest on all  
26 bonds of the issue, all costs of collection, and all other costs reasonably necessary to  
27 accomplish the collection of such sums in the event of any default of the district. Such  
28 resolution and such trust agreement or indenture may include covenants setting forth the  
29 duties of the district in relation to the acquisition of property for and construction of the  
30 project and to the custody, safeguarding, and application of all funds and covenants  
31 providing for the operation, maintenance, repair, and insurance of the project or projects  
32 and may contain provisions concerning the conditions, if any, upon which additional bonds  
33 may be issued. Such trust agreement or indenture may set forth the rights and remedies of  
34 the bondholders and of the trustee and may restrict the individual right of action of  
35 bondholders as is customary in securing bonds and debentures of corporations and may  
36 contain such other provisions as the district may deem reasonable and proper for the

1 security of the bondholders. All expenses incurred in carrying out such trust may be  
2 treated as a part of the cost of maintenance, operation, and repair of the project affected by  
3 such trust.

4 36-76-16.

5 Pursuant to proper resolution of the district, the district shall have the authority to issue  
6 general obligation bonds payable from taxes, fees, and assessments of the district pursuant  
7 to this chapter and revenue bonds payable from the rents and revenues of the district and  
8 its projects. Such bonds may be issued in either fully negotiable coupon form, in which  
9 event they shall have all the qualities and incidents of negotiable instruments under the law  
10 of Georgia, or they may be issued in whole or in part in nonnegotiable fully registered form  
11 without coupons, payable to a designated payee or to the registered assigns of the payee  
12 with such conversion privileges as the district may provide, for the purpose of paying all  
13 or any part of the cost associated with the projects authorized by the district, including the  
14 cost of constructing, reconstructing, equipping, extending, adding to, or improving such  
15 projects, or for the purpose of refunding, as herein provided, any such bonds of the district  
16 theretofore issued. If the proceeds of the bonds of any issue shall exceed the amount  
17 required for the purpose for which such bonds were issued, the surplus shall be paid into  
18 the fund provided for the payment of principal and interest on such bonds. All such bonds  
19 shall be issued and validated under and in accordance with the procedure of Chapter 82 of  
20 Title 36 and in accordance with all terms and provisions thereof not in conflict with this  
21 Code section and in accordance with Code Section 50-17-1, relating to use of facsimile  
22 signatures on public securities, and, as security for the payment of any bonds so authorized,  
23 any taxes, fees, assessments, rents, and revenues of the district may be pledged and  
24 assigned. Such bonds are declared to be issued for an essential public and governmental  
25 purpose, and such bonds and all income therefrom shall be exempt from all taxation within  
26 the State of Georgia. For the purpose of the exemption from taxation of such bonds and  
27 the income therefrom, the district shall be deemed to be a political subdivision of the State  
28 of Georgia.

29 36-76-17.

30 The district is authorized to provide by resolution for the issuance of revenue bonds of the  
31 district for the purpose of calling, refunding, or refinancing any bonds issued under the  
32 provisions hereof and then outstanding and to include in the amount of such refunding  
33 bonds all interest and any call premiums that may be required for the redemption and  
34 refunding of such outstanding bonds.

1 36-76-18.

2 Any action to protect or enforce any rights under the provisions hereof or any action  
3 against the district brought in the courts of the State of Georgia shall be brought in the  
4 superior court of the county in which the district is located; and any action pertaining to  
5 validation of any bonds issued under the provisions hereof shall be brought in such court,  
6 which shall have exclusive, original jurisdiction of such actions.

7 36-76-19.

8 The petition for validation of all bonds of the district shall be brought against the district  
9 and any contracting party whose obligation is pledged as security for the payment of the  
10 bonds sought to be validated as defendants, and the defendants shall be required to show  
11 cause, if any exists, why such contract or contracts and the terms and conditions thereof  
12 shall not be adjudicated to be in all respects valid and binding upon such contracting  
13 parties. It shall be incumbent upon such defendants to defend against adjudication of the  
14 validity and binding effect of such contract or contracts or be forever bound thereby.  
15 Notice of such proceedings shall be included in the notice of the validation hearing  
16 required to be issued and published by the clerk of the superior court of the county in which  
17 court such validation proceedings shall be initiated.

18 36-76-20.

19 While any of the bonds issued by the district remain outstanding, the powers, duties, or  
20 existence of the district or of its officers, employees, or agents shall not be diminished,  
21 impaired, or affected in any manner that will affect adversely the interest and rights of the  
22 holders of such bonds. The provisions of this Code section shall be for the benefit of the  
23 district and the holders of any such bonds and, upon the issuance of bonds under the  
24 provisions hereof, shall constitute a contract with the holders of such bonds.

25 36-76-21.

26 The revenue, rents, and earnings derived from any particular project or projects and any  
27 and all revenue, rents, and earnings received by the district, regardless of whether such  
28 revenue, rents, and earnings were produced by a particular project for which bonds have  
29 been issued, unless otherwise pledged, may be pledged by the district to payment of the  
30 principal of and interest on bonds of the district as may be provided in any resolution  
31 authorizing the issuance of such bonds or in any trust instrument pertaining to such bonds,  
32 and such funds so pledged, from whatever source received, may include funds received  
33 from one or more or all sources and may be set aside at regular intervals into sinking funds  
34 for which provision may be made in any such resolution or trust instrument and which may

1 be pledged to and charged with the payment of (1) the interest upon such bonds as such  
2 interest shall become due, (2) the principal of the bonds as the same shall mature, (3) the  
3 necessary charges of any trustee or paying agent for paying such principal and interest, and  
4 (4) any premium upon bonds retired by call or purchase; and the use and disposition of any  
5 sinking fund may be subject to such regulation as may be provided for in the resolution  
6 authorizing the issuance of the bonds or in the trust instrument securing the payment of the  
7 same.

8 36-76-22.

9 The exercise of the powers conferred upon the district pursuant to this chapter shall  
10 constitute an essential governmental function for a public purpose, and the district shall be  
11 required to pay no taxes or assessments upon any of the property acquired by it or under  
12 its jurisdiction, control, possession, or supervision or upon its activities in the operation and  
13 maintenance of property acquired by it or of buildings erected or acquired by it or any fees,  
14 rents, or other charges for the use of such property or buildings or other income received  
15 by the district. The tax exemption provided by this Code section shall not include an  
16 exemption from sales and use tax on property purchased by or for the use of the district.

17 36-76-23.

18 All funds received by the district, whether as proceeds from the sale of bonds or as  
19 revenue, rents, fees, charges, or other earnings or as grants, gifts, or other contributions,  
20 shall be deemed to be trust funds to be held and applied by the district, solely as provided  
21 in this chapter; and the bondholders entitled to receive the benefits of such funds shall have  
22 a lien on all such funds until the same are applied as provided for in any such resolution or  
23 trust instrument of the district.

24 36-76-24.

25 (a) The board shall have the power to levy and assess an ad valorem tax on all the taxable  
26 property in the district to construct, operate, and maintain assessable improvements; to pay  
27 the principal of, and interest on, any general obligation bonds of the district; and to provide  
28 for any sinking or other funds established in connection with any such bonds. An ad  
29 valorem tax levied by the board for operating purposes, exclusive of debt service on bonds,  
30 shall not exceed 5 mills. The ad valorem tax provided for in this Code section shall be in  
31 addition to county and all other ad valorem taxes provided for by law. Such tax shall be  
32 assessed, levied, and collected in the same manner and same time as county taxes. The  
33 total amount of taxes, fees, and assessments levied by the district shall not exceed 2.5  
34 percent of the assessed value of the real property in the district.

1 (b) The board shall annually determine, order, and levy the annual installment of the total  
2 benefit special assessments for bonds issued and related expenses to finance district  
3 facilities and projects which are levied under this chapter. These assessments may be due  
4 and collected during each year that county taxes are due and collected, in which case such  
5 annual installment and levy shall be evidenced to and certified to the property appraiser by  
6 the board not later than August 31 of each year, and such assessment shall be entered on  
7 the county tax rolls, and shall be collected and enforced by the tax collector or tax  
8 commissioner in the same manner and at the same time as county taxes, and the proceeds  
9 thereof shall be paid to the district. These benefit special assessments shall be a lien on the  
10 property against which assessed until paid and shall be enforceable in like manner as  
11 county taxes. The amount of the assessment for the exercise of the district's powers shall  
12 be determined by the board and assessed by the board upon such lands, which may be part  
13 or all of the lands within the district benefited by the improvement, apportioned between  
14 benefited lands in proportion to the benefits received by each tract of land.

15 (c) To maintain and preserve the facilities and projects of the district, the board may levy  
16 a maintenance special assessment. This assessment may be evidenced to and certified to  
17 the county by the board not later than August 31 of each year and shall be entered on the  
18 county tax rolls and shall be collected and enforced by the tax collector or tax  
19 commissioner in the same manner and at the same time as county taxes, and the proceeds  
20 therefrom shall be paid to the district. These maintenance special assessments shall be a  
21 lien on the property against which assessed until paid and shall be enforceable in like  
22 manner as county taxes. The amount of the maintenance special assessment for the  
23 exercise of the district's powers shall be determined by the board and assessed by the board  
24 upon such lands, which may be all of the lands within the district benefited by the  
25 maintenance thereof, apportioned between the benefited lands in proportion to the benefits  
26 received by each tract of land.

27 (d) The collection and enforcement of all taxes levied by the district shall be at the same  
28 time and in like manner as county taxes.

29 (e) All taxes provided for in this chapter shall become delinquent and bear penalties on the  
30 amount of such taxes in the same manner as county taxes.

31 (f) Benefit special assessments and maintenance special assessments authorized by this  
32 Code section shall constitute a lien on the property against which assessed from the date  
33 of imposition thereof until paid, coequal with the lien of state, county, municipal, and  
34 school board taxes. These non-ad valorem assessments may be collected, at the district's  
35 discretion, by the tax collector or tax commissioner of the county in which the district is  
36 located or in accordance with other collection measures provided by law.

1 (g) Except as otherwise provided by law, no levy of ad valorem taxes or non-ad valorem  
2 assessments under this chapter by a board of a district on property of a governmental entity  
3 that is subject to a ground lease as described in paragraph (12) of Code Section 36-76-2  
4 shall constitute a lien or encumbrance on the underlying fee interest of such governmental  
5 entity.

6 36-76-25.

7 All taxes of the district provided for in this chapter, together with all penalties for default  
8 in the payment of the same and all costs in collecting the same, including a reasonable  
9 attorney's fee fixed by the court and taxed as a cost in the action brought to enforce  
10 payment, shall, from January 1 for each year the property is liable to assessment and until  
11 paid, constitute a lien of equal dignity with the liens for state and county taxes and other  
12 taxes of equal dignity with state and county taxes upon all the lands against which such  
13 taxes shall be levied. A sale of any of the real property within the district for state and  
14 county or other taxes shall not operate to relieve or release the property so sold from the  
15 lien for subsequent district taxes or installments of district taxes, which lien may be  
16 enforced against such property as though no such sale thereof had been made.

17 36-76-26.

18 (a) All public works contracts shall be made in accordance with the provisions of  
19 Chapter 91 of this title.

20 (b) All contracts let by the board for any goods, supplies, or materials to be purchased  
21 when the amount thereof to be paid by the district shall exceed \$100,000.00 shall require  
22 that a notice of bids shall be advertised twice in the legal organ of the county allowing a  
23 reasonable amount of time for responsive bids to be submitted and shall be subject to this  
24 Code section. The bid of the lowest responsive and responsible bidder shall be accepted  
25 unless all bids are rejected because the bids are too high or the board determines it is in the  
26 best interests of the district to reject all bids. The board may require the bidders to furnish  
27 bond with a responsible surety to be approved by the board.

28 36-76-27.

29 The district shall have the same immunity and exemption from liability for torts and  
30 negligence as the State of Georgia; and the officers, agents, and employees of the district,  
31 when in performance of work of the district, shall have the same immunity and exemption  
32 from liability for torts and negligence as officers, agents, and employees of the State of  
33 Georgia.

1 36-76-28.

2 (a) The district is authorized to prescribe, fix, establish, and collect rates, fees, rentals, or  
3 other charges and to revise the same from time to time for the facilities and services  
4 furnished by the district, within the limits of the district, including, but not limited to,  
5 recreational facilities, water management and control facilities, and water and sewer  
6 systems; to recover the costs of making connection with any district facility or system; and  
7 to provide for reasonable penalties against any user or property for any such rates, fees,  
8 rentals, or other charges that are delinquent.

9 (b) No such rates, fees, rentals, or other charges for any of the facilities or services of the  
10 district shall be fixed until after a public hearing at which all the users of the proposed  
11 facility or services or owners, tenants, or occupants served or to be served thereby and all  
12 other interested persons shall have an opportunity to be heard concerning the proposed  
13 rates, fees, rentals, or other charges. Notice of such public hearing setting forth the  
14 proposed schedule or schedules of rates, fees, rentals, and other charges shall be published  
15 in the legal organ of the county in which the district is located for two weeks immediately  
16 preceding such public hearing. The hearing may be adjourned from time to time. After  
17 such hearing, such schedule or schedules, either as initially proposed or as modified or  
18 amended, may be finally adopted. A copy of the schedule or schedules of such rates, fees,  
19 rentals, or charges as finally adopted shall be kept on file in an office designated by the  
20 board and shall be open at all reasonable times to public inspection. The rates, fees,  
21 rentals, or charges so fixed for any class of users or property served shall be extended to  
22 cover any additional users or properties thereafter served which shall fall in the same class,  
23 without the necessity of any notice or hearing.

24 (c) Such rates, fees, rentals, and charges shall be just and equitable and uniform for users  
25 of the same class and, when appropriate, may be based or computed either upon the amount  
26 of service furnished, upon the number of average number of persons residing or working  
27 in or otherwise occupying the premises served, or upon any other factor affecting the use  
28 of the facilities furnished, or upon any combination of the foregoing factors, as may be  
29 determined by the board on an equitable basis.

30 (d) The rates, fees, rentals, or other charges prescribed shall be such as will produce  
31 revenues, together with any other assessments, taxes, revenues, or funds available or  
32 pledged for such purpose, at least sufficient to provide for the following items, but not  
33 necessarily in the following order:

- 34 (1) To provide for all expenses of operation and maintenance of such facility or service;  
35 (2) To pay when due all bonds and interest thereon for the payment of which such  
36 revenues are, or shall have been, pledged or encumbered, including reserves for such  
37 purpose; and

1 (3) To provide for any other funds which may be required under the resolution or  
2 resolutions authorizing the issuance of bonds pursuant to this chapter.

3 (e) The board shall have the power to enter into contracts for the use of the projects of the  
4 district and with respect to the services and facilities furnished or to be furnished by the  
5 district.

6 (f) In the event that any rates, fees, rentals, charges, or delinquent penalties shall not be  
7 paid as and when due and shall be in default for 60 days or more, the unpaid balance  
8 thereof and all interest accrued thereon, together with reasonable attorney's fees and costs,  
9 may be recovered by the district in a civil action.

10 (g) In the event the fees, rentals, or other charges for water and sewer services, or either  
11 of them, are not paid when due, the board shall have the power, under such reasonable rules  
12 and regulations as the board may adopt, to discontinue and shut off both water and sewer  
13 services until such fees, rentals, or other charges, including interest, penalties, and charges  
14 for the shutting off and discontinuance and the restoration of such water and sewer services  
15 or both, are fully paid; and, for such purposes, the board may enter on any lands, waters,  
16 or premises of any person, firm, corporation, or body, public or private, within the district  
17 limits. Such delinquent fees, rentals, or other charges, together with interest, penalties, and  
18 charges for the shutting off and discontinuance and the restoration of such services and  
19 facilities and reasonable attorney's fees and other expenses, may be recovered by the  
20 district, which may also enforce payment of such delinquent fees, rentals, or other charges  
21 by any other lawful method of enforcement.

22 36-76-29.

23 The board or any aggrieved person may have recourse to such remedies in law and at  
24 equity as may be necessary to ensure compliance with the provisions of this chapter,  
25 including injunctive relief to enjoin or restrain any person violating the provisions of this  
26 chapter or any bylaws, resolutions, regulations, rules, codes, or orders adopted under this  
27 chapter. In case any building or structure is erected, constructed, reconstructed, altered,  
28 repaired, converted, or maintained, or any building, structure, land, or water is used, in  
29 violation of this chapter or of any code, order, resolution, or other regulation made under  
30 authority conferred by this chapter or under law, the board or any citizen residing in the  
31 district may institute any appropriate action or proceeding to prevent such unlawful  
32 erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;  
33 to restrain, correct, or avoid such violation; to prevent the occupancy of such building,  
34 structure, land, or water; and to prevent any illegal act, conduct, business, or use in or about  
35 such premises, land, or water.

1 36-76-30.

2 All district property shall be exempt from levy and sale by virtue of an execution, and no  
3 execution or other judicial process shall issue against such property, nor shall any judgment  
4 against the district be a charge or lien on its property or revenues; however, nothing  
5 contained herein shall apply to or limit the rights of bondholders to pursue any remedy for  
6 the enforcement of any lien or pledge given by the district in connection with any of the  
7 bonds or obligations of the district.

8 36-76-31.

9 (a) The board may petition to contract or expand the boundaries of a district in the  
10 following manner:

11 (1) The petition shall contain the same information required by subsection (b) of Code  
12 Section 36-76-3. In addition, if the petitioner seeks to expand the district, the petition  
13 shall describe the proposed timetable for construction of any district services to the area,  
14 the estimated cost of constructing the proposed services, and the designation of the future  
15 general distribution, location, and extent of public and private uses of land proposed for  
16 the area by the future land use plan element of the adopted local government local  
17 comprehensive plan. If the petitioner seeks to contract the district, the petition shall  
18 describe what services and facilities are currently provided by the district to the area  
19 being removed, and the designation of the future general distribution, location, and extent  
20 of public and private uses of land proposed for the area by the future land element of the  
21 adopted local government comprehensive plan;

22 (2) The petition shall be filed with the county governing authority. A public hearing  
23 shall be held in the same manner and with the same public notice as other resolutions.  
24 However, such public hearing shall be limited to consideration of the contents of the  
25 petition and whether the petition for amendment should be supported by the county. The  
26 county governing authority shall consider the record of the public hearing and the factors  
27 set forth in subsection (f) of Code Section 36-76-3 in making its determination to grant  
28 or deny the petition;

29 (3) Prior to filing the petition, the petitioner shall pay a filing fee of \$1,500.00 to the  
30 county. In addition, if the district is not the petitioner, the petitioner shall file the petition  
31 with the district board of supervisors;

32 (4) A resolution amending a district boundary shall describe the land to be added or  
33 deleted; and

34 (5) In all cases, written consent of all the landowners whose land is to be added to or  
35 deleted from the district shall be required. The filing of the petition for expansion or  
36 contraction by the district board of supervisors shall constitute consent of the landowners

1 within the district other than of landowners whose land is proposed to be added to or  
2 removed from the district.

3 (b) Petitions to amend the boundaries of a district pursuant to this Code section shall be  
4 limited to a cumulative total of no more than 50 percent of the land in the initial district,  
5 and in no event shall all such petitions to amend the boundaries ever encompass more than  
6 a total of 500 acres.

7 (c) The district shall remain in existence unless:

8 (1) The district is merged with another district as provided in subsection (d) of this Code  
9 section;

10 (2) All of the specific community development systems, facilities, and services that it is  
11 authorized to perform have been transferred to the county governing authority in the  
12 manner provided in subsection (e) of this Code section; or

13 (3) The district is dissolved as provided in subsection (f) of this Code section.

14 (d) The district may merge with other community improvement districts within the county  
15 upon filing a petition for establishment of a new community improvement district pursuant  
16 to Code Section 36-76-3. The district formed by a merger of two or more districts pursuant  
17 to this subsection shall assume all indebtedness of, and receive title to, all property owned  
18 by the preexisting district or districts. Prior to filing such petition, the districts desiring to  
19 merge shall enter into a merger agreement and shall provide for the proper allocation of the  
20 indebtedness so assumed and the manner in which said debt shall be retired. The approval  
21 of the merger agreement by the board shall constitute consent of the landowners within the  
22 district.

23 (e)(1) The county governing authority of the county in which the district lies may adopt  
24 a resolution providing for a plan for the transfer of a specific community development  
25 service from a district to the county governing authority. The plan must provide for the  
26 assumption and guarantee of the district debt that is related to the service by the county  
27 governing authority and must demonstrate the ability of the county governing authority  
28 to provide such service:

29 (A) As efficiently as the district;

30 (B) At a level of quality equal to or higher than the level of quality actually delivered  
31 by the district to the users of the service; and

32 (C) At a charge equal to or lower than the actual charge by the district to the users of  
33 the service.

34 (2) No later than 30 days following the adoption of a transfer plan ordinance, the board  
35 of supervisors may file, in the superior court for the county in which the district is  
36 located, a petition seeking review of the factual and legal basis for the adoption of the  
37 transfer plan ordinance.

1 (3) Upon the transfer of all of the community development services of the district to a  
 2 the county governing authority, the district shall be terminated in accordance with a plan  
 3 of termination which shall be adopted by the board of supervisors and filed with the clerk  
 4 of the superior court.

5 (f)(1) If, within five years after the effective date of the resolution establishing the  
 6 district, a landowner has not received a development permit on some or all of the area  
 7 covered by the district, then the district will be automatically dissolved and a judge of the  
 8 superior court of the county in which such district is located shall cause a statement to  
 9 that effect to be filed in the public records of the clerk of superior court.

10 (2) If a district has no outstanding financial obligations and no operating or maintenance  
 11 responsibilities, upon the petition of the district, the district may be dissolved by a  
 12 resolution of the county governing authority that established the district.

13 36-76-32.

14 (a) A district may be incorporated as a municipality by the General Assembly in  
 15 accordance with the provisions of law governing the incorporation of municipalities. Upon  
 16 being incorporated, the district shall be dissolved and all obligations, debts, property, and  
 17 responsibilities of the district shall be transferred to the municipality.

18 (b) Any district contiguous to the boundary of a municipality may be annexed to such  
 19 municipality pursuant to the provisions of Chapter 36 of this title. Upon being annexed,  
 20 the district shall be dissolved and all obligations, debts, property, and responsibilities of the  
 21 district shall be transferred to the annexing municipality.

22 36-76-33.

23 (a) Subsequent to the establishment of a district under this chapter, each contract for the  
 24 initial sale of a parcel of real property and each contract for the initial sale of a residential  
 25 unit within the district shall include, immediately prior to the space reserved in the contract  
 26 for the signature of the purchaser, the following disclosure statement in boldface and  
 27 conspicuous type which is larger than the type in the remaining text of the contract:

28 **"THE (Name of District) COMMUNITY IMPROVEMENT DISTRICT MAY IMPOSE**  
 29 **AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND**  
 30 **ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS**  
 31 **PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF**  
 32 **CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE**  
 33 **SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE**  
 34 **TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER**

1 LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER  
2 TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.'

3 (b) Within 30 days after the effective date of a resolution establishing a community  
4 improvement district under this chapter, the district shall cause to be recorded in the  
5 property records in the county in which it is located a 'Notice of Establishment of the  
6 \_\_\_\_\_ Community Development District.' The notice shall, at a minimum, include  
7 the legal description of the district and a copy of the disclosure statement set forth in  
8 subsection (a) of this Code section."

9 **SECTION 2.**

10 This Act shall become effective on January 1, 2007, provided that an amendment to Article  
11 IX, Section VII, Paragraph III of the state Constitution removing the limitation that prohibits  
12 the levy of taxes, fees, and assessments on property that is used for residential, agricultural,  
13 or forestry purposes is passed and ratified in the 2006 November general election.  
14 Otherwise, this Act shall stand repealed by operation of law on January 1, 2007.

15 **SECTION 3.**

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