

House Bill 1584 (AS PASSED HOUSE AND SENATE)

By: Representatives Smith of the 113<sup>th</sup> and Holt of the 112<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To create the Morgan County Building Authority; to provide for a short title and legislative  
2 findings; to confer powers and impose duties on the authority; to provide for the membership  
3 and the appointment of members of the authority and their terms of office, qualifications,  
4 duties, powers, and compensation; to provide for vacancies, organization, meetings, and  
5 expenses; to provide for definitions; to provide for revenue bonds and their negotiability,  
6 sale, and use of proceeds from such sales; to provide for conditions for issuance; to prohibit  
7 the pledge of credit for the payment of bonds; to provide for trust indentures and a sinking  
8 fund; to provide for payment of bond proceeds; to provide for bondholder remedies and  
9 protection; to provide for refunding bonds; to provide for bond validation; to provide for  
10 venue and jurisdiction; to provide for trust funds; to provide for the authority's purpose; to  
11 provide for charges; to provide for rules and regulations; to provide for tort immunity; to  
12 provide for tax exemptions and exemptions from levy and sale; to provide for supplemental  
13 powers; to provide for effect on other governments; to provide for liberal construction; to  
14 provide for severability; to provide an effective date; to provide for related matters; to repeal  
15 conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 This Act shall be known and may be cited as the "Morgan County Building Authority Act."

19 **SECTION 2.**

20 There is created a body corporate and politic to be known as the Morgan County Building  
21 Authority, which shall be deemed to be a public corporation by that name, style, and title to  
22 be known. Such corporation shall be separate and distinct from any public corporation  
23 heretofore created by the General Assembly and shall be an instrumentality of the State of  
24 Georgia exercising governmental powers. All property owned by such corporation shall be

1 public property held and owned for governmental purposes and shall be exempt from  
2 taxation.

### 3 SECTION 3.

4 The authority shall have the power:

5 (1) To hold, own, and convey real and personal property;

6 (2) To sue and be sued;

7 (3) To have and to use a seal and to alter the same at pleasure;

8 (4) To acquire, construct, purchase, own, equip, operate, extend, improve, lease, and sell  
9 any project as hereinafter defined;

10 (5) To exercise the powers conferred upon a "public corporation" or a "public authority"  
11 by Article IX, Section III, Paragraph I of the Constitution of Georgia, such authority  
12 being expressly declared to be a "public corporation" or a "public authority" within the  
13 meaning of such provision of the Constitution of Georgia;

14 (6) To acquire in its own name by purchase on such terms and conditions and in such  
15 manner as it may deem proper. If the authority shall deem it expedient to construct any  
16 project on real property which is subject to the control of Morgan County, Georgia,  
17 Morgan County, Georgia, is authorized to convey such real property to the authority for  
18 such consideration as may be agreed upon by the authority and Morgan County, Georgia,  
19 taking into consideration the public benefit to be derived from such conveyance;

20 (7) To accept gifts and bequests for its corporate purposes;

21 (8) To appoint, select, and employ officers, agents, and employees, including  
22 engineering, architectural, and construction experts, fiscal agents, and attorneys, and to  
23 fix their compensation;

24 (9) To make and execute with public and private persons and corporations contracts,  
25 lease agreements, rental agreements, installment sale agreements, and other instruments  
26 relating to its projects and incident to the exercise of the powers of the authority,  
27 including contracts for constructing, renting, leasing, and selling its projects for the  
28 benefit of Morgan County, Georgia; and, without limiting the generality of the foregoing,  
29 authority is specifically granted to Morgan County, Georgia, to enter into contracts, lease  
30 agreements, rental agreements, installment sale agreements, and related agreements with  
31 the authority for a term not exceeding 50 years;

32 (10) To sell or assign its rights under its contracts, lease agreements, or installment sale  
33 agreements or its right to receive payments thereunder, either directly or through trust or  
34 custodial arrangements whereby interests are created in such contracts, lease agreements,  
35 or installment sale agreements or the payments to be received thereunder through the

1 issuance of trust certificates, certificates of participation, custodial receipts, or other  
2 similar instruments;

3 (11) To accept loans and grants of money or property of any kind from the United States,  
4 the State of Georgia, or any political subdivision of the State of Georgia;

5 (12) To borrow money for any of its corporate purposes and to issue revenue bonds  
6 payable solely from funds or revenues of the authority pledged for that purpose and to  
7 pledge and assign any of its revenues, income, rent, charges, and fees to provide for the  
8 payment of the same and to provide for the rights of the holders of such revenue bonds;  
9 and

10 (13) To make such rules and regulations governing its employees and property as it may  
11 in its discretion deem proper.

#### 12 **SECTION 4.**

13 The authority shall consist of five members who shall be the five duly elected commissioners  
14 of the Morgan County Board of Commissioners, who shall be eligible to succeed themselves.

15 The members of the authority shall hold office for terms coinciding with their terms on the  
16 board of commissioners and shall serve until their successors are elected. Immediately after  
17 their election to the board of commissioners, the members of the authority shall enter upon  
18 their duties. Three members of the authority shall constitute a quorum, and no vacancy on  
19 the authority shall impair the right of the quorum to exercise all the rights and perform all the  
20 duties of the authority and, in every instance, a majority vote of a quorum shall authorize any  
21 legal act of the authority, including all things necessary to authorize and issue revenue bonds.

22 The authority shall elect one of its members as chairperson and shall elect a secretary and  
23 treasurer who need not necessarily be a member of the authority. The members of the  
24 authority shall not be entitled to compensation for their services but shall be entitled to and  
25 shall be reimbursed for their actual expenses necessarily incurred in the performance of their  
26 duties. The authority shall make rules and regulations for its own government. It shall have  
27 perpetual existence. Any change in name or composition of the authority shall in no way  
28 affect the vested rights of any person under the provisions of this Act or impair the  
29 obligations of any contracts existing under this Act.

#### 30 **SECTION 5.**

31 (a) As used in this Act, the following words and terms shall have the following meanings  
32 unless a different meaning clearly appears from the context:

33 (1) "Authority" shall mean the Morgan County Building Authority created in Section 2  
34 of this Act.

1 (2) "Cost of the project" shall include the cost of construction, the cost of all lands,  
 2 properties, rights, easements, and franchises acquired, the cost of buildings,  
 3 improvements, materials, labor, and services contracted for, the cost of all machinery and  
 4 equipment, financing charges, interest prior to and during construction and for one year  
 5 after the completion of construction, engineering, architectural, fiscal, accounting,  
 6 inspection, and legal expenses, cost of plans and specifications, and other expenses  
 7 necessary or incident to determining the feasibility or practicability of the project,  
 8 administrative expenses, and such other expenses as may be necessary or incident to the  
 9 financing herein authorized, the acquisition, construction, renovation, reconstruction, or  
 10 remodeling of any project, the placing of the same in operation, and the condemnation  
 11 of property necessary for such construction and operation. Any obligation or expense  
 12 incurred for any of the foregoing purposes shall be regarded as a part of the cost of the  
 13 project and may be paid or reimbursed as such out of any funds of the authority,  
 14 including proceeds of any revenue bonds issued under the provisions of this Act for any  
 15 such project or projects and the proceeds of the sale of any contracts, lease agreements,  
 16 or installment sale agreements or the amounts payable thereunder, either directly or by  
 17 the creation of interests therein.

18 (3) "Project" shall mean and include real and personal property, including buildings and  
 19 related facilities and equipment, which are necessary or convenient for the efficient  
 20 operation of Morgan County, Georgia.

21 (4) "Revenue bonds" shall mean revenue bonds issued by the authority pursuant to the  
 22 terms of this Act and Article 3 of Chapter 82 of Title 36 of the O.C.G.A., known as the  
 23 "Revenue Bond Law."

24 (b) Any project shall be deemed "self-liquidating" if, in the judgment of the authority, the  
 25 revenues and earnings to be derived by the authority therefrom and all properties used,  
 26 leased, and sold in connection therewith will be sufficient to pay the cost of operating,  
 27 maintaining, and repairing the project and to pay the principal of and interest on the revenue  
 28 bonds which may be issued to finance, in whole or in part, the cost of such project or  
 29 projects.

### 30 SECTION 6.

31 The authority shall have power and is authorized from time to time to provide by resolution  
 32 for the issuance of negotiable revenue bonds in the manner provided by Article 3 of Chapter  
 33 82 of Title 36 of the O.C.G.A., known as the "Revenue Bond Law," for the purpose of paying  
 34 all or any part of the cost of any one or more projects, including the cost of constructing,  
 35 reconstructing, equipping, extending, adding to, or improving any such project, or for the  
 36 purpose of refunding, as herein provided, any such bonds of the authority previously issued.

1 The principal of and interest on such revenue bonds shall be payable solely from such part  
2 of the revenues and earnings of such project or projects as may be designated in the  
3 resolution of the authority authorizing the issuance of such revenue bonds. The revenue  
4 bonds of each issue shall be issued and validated under and in accordance with the provisions  
5 of Article 3 of Chapter 82 of Title 36 of the O.C.G.A., known as the "Revenue Bond Law."

6 **SECTION 7.**

7 All revenue bonds issued under the provisions of this Act shall have and are declared to have  
8 all the qualities and incidents of negotiable instruments under the negotiable instruments law  
9 of this state. Such bonds are declared to be issued for an essential public and governmental  
10 purpose and such bonds and the income thereof shall be exempt from all taxation within this  
11 state.

12 **SECTION 8.**

13 Revenue bonds issued under the provisions of this Act shall not constitute a debt or a pledge  
14 of the faith and credit of the State of Georgia or of Morgan County, Georgia, but such bonds  
15 shall be payable solely from such part of the revenues and earnings of such project or  
16 projects as may be designated in the resolution of the authority authorizing the issuance of  
17 such bonds. The issuance of such revenue bonds shall not directly, indirectly, or  
18 contingently obligate the State of Georgia or Morgan County, Georgia, to levy or to pledge  
19 any form of taxation whatever for the payment thereof. No holder of any bond or receiver  
20 or trustee in connection therewith shall have the right to enforce the payment thereof against  
21 any property of the State of Georgia or Morgan County, Georgia, nor shall any such bond  
22 constitute a charge, lien, or encumbrance, legal or equitable, upon any such property. All  
23 such bonds shall contain on their face a recital setting forth substantially the foregoing  
24 provisions of this section. Morgan County, Georgia, however, may obligate itself to pay the  
25 amounts required under any contract entered into with the authority from funds received  
26 from taxes to be levied and collected for that purpose to the extent necessary to pay the  
27 obligations contractually incurred with the authority, and from any other source; and the  
28 obligation to make such payments shall constitute a general obligation and a pledge of the  
29 full faith and credit of Morgan County, Georgia, but shall not constitute a debt of Morgan  
30 County, Georgia, within the meaning of the Constitution of the State of Georgia, Article IX,  
31 Section V, Paragraph I; and, when Morgan County, Georgia, contracts with the authority to  
32 make such payments from taxes to be levied for that purpose, then the obligation shall be  
33 mandatory to levy and collect such taxes from year to year in an amount sufficient to fulfill  
34 and fully comply with the terms of such contract.

**SECTION 9.**

1  
2 In the discretion of the authority, any issue of such revenue bonds may be secured by a trust  
3 indenture by and between the authority and a trustee, which may be any trust company or  
4 bank having the powers of a trust company within or outside of the State of Georgia. Such  
5 trust indenture may pledge or assign fees, tolls, rents, revenues, and earnings to be received  
6 by the authority, including the proceeds derived from the sale or lease, from time to time, of  
7 any project. Either the resolution providing for the issuance of revenue bonds or such trust  
8 indenture may contain such provisions for protecting and enforcing the rights and remedies  
9 of the bondholders as may be reasonable and proper and not in violation of law, including  
10 covenants setting forth the duties of the authority in relation to the acquisition and  
11 construction of any project, the maintenance, operation, repair, and insurance of any project,  
12 and the custody, safeguarding, and application of all moneys, including the proceeds derived  
13 from the sale or lease of any project, and may also provide that any project shall be acquired  
14 and constructed under the supervision and approval of consulting engineers or architects  
15 employed or designated by the authority and satisfactory to the original purchasers of the  
16 bonds issued therefor and may also require that the security given by contractors and by any  
17 depository of the proceeds of the bonds or revenues or other moneys be satisfactory to such  
18 purchasers and may also contain provisions concerning the conditions, if any, upon which  
19 additional revenue bonds pledging all or any part of the revenues and earnings of such  
20 project or projects may be issued. Such indenture may set forth the rights and remedies of  
21 the bondholders and of the trustee. In addition to the foregoing, such trust indenture may  
22 contain such other provisions as the authority may deem reasonable and proper for the  
23 security of the bondholders. All expenses incurred in carrying out such trust indenture may  
24 be treated as a part of the cost of maintenance, operation, and repair of the project affected  
25 by such indenture.

**SECTION 10.**

26  
27 The revenues, fees, tolls, and earnings derived from any particular project or projects,  
28 regardless of whether or not such revenues, fees, tolls, and earnings were produced by a  
29 particular project for which bonds have been issued, and any moneys derived from the sale  
30 of any properties, both real and personal, of the authority, unless otherwise pledged and  
31 allocated, may be pledged and allocated by the authority to the payment of the principal and  
32 interest on revenue bonds of the authority as the resolution authorizing the issuance of the  
33 bonds or the trust indenture may provide, and such funds so pledged, from whatever source  
34 received, which such pledge may include funds received from one or more or all sources not  
35 previously pledged and allocated, shall be set aside at regular intervals, as may be provided

1 in the resolution or trust indenture, into a sinking fund, which such sinking fund shall be  
2 pledged to and charged with the payments of:

- 3 (1) The interest upon such revenue bonds as such interest shall fall due;
- 4 (2) The principal of the bonds as the same shall fall due;
- 5 (3) The necessary charges of any paying agent or agents for paying principal and  
6 interest; and
- 7 (4) Any premium upon bonds retired by call or purchase.

8 The use and disposition of such sinking fund shall be subject to such regulations as may be  
9 provided in the resolution authorizing the issuance of the revenue bonds or in the trust  
10 indenture, but, except as may otherwise be provided in such resolution or trust indenture,  
11 such sinking fund shall be a fund for the benefit of all revenue bonds issued pursuant to such  
12 resolution or trust indenture without distinction or priority of one over another.

### 13 **SECTION 11.**

14 The authority is authorized to provide by resolution for the issuance of revenue refunding  
15 bonds of the authority for the purpose of refunding any revenue bonds issued under the  
16 provisions of this Act and then outstanding, together with accrued interest thereon and any  
17 premium required for the payment of such bonds prior to maturity. The issuance of such  
18 revenue bonds and all the details thereof, the rights of the holders thereof, and the duties of  
19 the authority with respect to the same shall be governed by the foregoing provisions of this  
20 Act insofar as the same may be applicable.

### 21 **SECTION 12.**

22 The principal office of the authority shall be in Morgan County, Georgia, and the venue of  
23 any action against it shall be in Morgan County. Any action pertaining to the validation of  
24 any bonds issued under the provisions of this Act and for the validation of any contract  
25 entered into by the authority shall be brought in the Superior Court of Morgan County, and  
26 such court shall have exclusive original jurisdiction of such actions. Service upon the  
27 authority of any process, subpoena, or summons shall be effected by serving the same  
28 personally upon any member of the authority.

### 29 **SECTION 13.**

30 Revenue bonds of the authority shall be confirmed and validated in accordance with the  
31 procedure now or hereafter set forth in Article 3 of Chapter 82 of Title 36 of the O.C.G.A.,  
32 known as the "Revenue Bond Law," as the same now exists or may hereafter be amended.  
33 The petition for validation shall also make a party defendant to such action Morgan County,  
34 Georgia, if such county has or will contract with the authority with respect to the project for

1 which bonds are to be issued and are sought to be validated, and Morgan County, Georgia,  
2 shall be required to show cause, if any exists, why such contract and the terms and conditions  
3 thereof should not be inquired into by the court and the validity of the terms thereof be  
4 determined and the contract adjudicated as security for the payment of any such bonds of the  
5 authority. The bonds, when validated, and the judgment of validation shall be final and  
6 conclusive with respect to the validity of such bonds against the authority, and the validity  
7 of the contract and of the terms and conditions thereof, when validated, and the judgment of  
8 validation shall be final and conclusive against Morgan County, Georgia, if it be a party to  
9 the validation proceeding as herein provided for.

#### 10 **SECTION 14.**

11 While any of the bonds issued by the authority or any interests in contracts of the authority  
12 remain outstanding, the powers, duties, or existence of the authority or of its officers,  
13 employees, or agents shall not be diminished or impaired in any manner that will affect  
14 adversely the interest and rights of the holders of such bonds or such interests in contracts  
15 of the authority. The provisions of this section of this Act shall be for the benefit of the  
16 authority and of the holders of any such bonds and interests in contracts of the authority and,  
17 upon the issuance of bonds or the creation of interests in contracts of the authority under the  
18 provisions of this Act, shall constitute a contract with the holders of such bonds or such  
19 interests in contracts of the authority.

#### 20 **SECTION 15.**

21 All moneys received by the authority pursuant to this Act, whether as proceeds from the sale  
22 of revenue bonds or contracts of the authority, as grants or other contributions, or as  
23 revenues, income, fees, and earnings, shall be deemed to be the trust funds to be held and  
24 applied solely as provided in this Act and in such resolutions and trust indentures as may be  
25 adopted and entered into by the authority pursuant to this Act.

#### 26 **SECTION 16.**

27 The authority is authorized to prescribe and fix and collect rates, fees, tolls, rents, and  
28 charges and to revise, from time to time, and collect such revised rates, fees, tolls, rents, and  
29 charges for the services, facilities, or commodities furnished, including leases, concessions,  
30 or subleases of its projects, and to determine the price and terms at and under which its  
31 projects may be sold.

**SECTION 17.**

1  
2 The exercise of the powers conferred upon the authority hereunder shall constitute an  
3 essential governmental function for a public purpose and the authority shall be required to  
4 pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction,  
5 control, possession, or supervision or upon its activities in the operation and maintenance of  
6 property acquired by it or of buildings erected or acquired by it or any fees, rentals, or other  
7 charges for the use of such property or buildings or other income received by the authority.  
8 The tax exemption herein provided shall not include an exemption from sales and use tax on  
9 property purchased by or for the use of the authority.

**SECTION 18.**

10  
11 The authority shall have the same immunity and exemption from liability for torts and  
12 negligence as the State of Georgia, and the officers, agents, and employees of the authority,  
13 when in performance of work of the authority, shall have the same immunity and exemption  
14 from liability for torts and negligence as officers, agents, and employees of the State of  
15 Georgia. The authority may be sued the same as any private corporation on any contractual  
16 obligation of the authority.

**SECTION 19.**

17  
18 The property of the authority shall not be subject to levy and sale under legal process.

**SECTION 20.**

19  
20 The scope of the authority's operation shall be limited to the territory embraced within the  
21 territorial limits of Morgan County, as the same now or may hereafter exist.

**SECTION 21.**

22  
23 This Act does not in any way take away from the authority any power which may be  
24 conferred upon it by law but is supplemental thereto.

**SECTION 22.**

25  
26 The authority shall not have the right to impose any tax on any person or property.

**SECTION 23.**

27  
28 This Act shall be liberally construed to effect the purposes hereof.

