

House Bill 315

By: Representatives Benton of the 31st, England of the 108th, Sheldon of the 105th, and Mills of the 25th

A BILL TO BE ENTITLED
AN ACT

1 To provide for the creation of one or more community improvement districts in the Town of
2 Braselton; to provide for a short title; to provide for the purposes of said district or districts;
3 to provide for definitions; to provide for a board to administer said district or districts; to
4 provide for the appointment and election of members of said board or boards; to provide for
5 taxes, fees, and assessments; to provide for establishment of the boundaries of said district
6 or districts; to provide for a tax cap; to specify conditions whereby the continued existence
7 of the district or districts or the continued existence of any one or more of the powers granted
8 to the district or districts may be terminated; to provide procedures for termination of the
9 district or districts; to provide for the alteration of district boundaries and the practices,
10 procedures, and requirements related thereto; to provide for debt of said district or districts;
11 to provide for cooperation with local governments; to provide for powers of said boards; to
12 provide for notes and other obligations of said district or districts; to provide for authorized
13 contents of agreements and instruments of the board generally, use of proceeds of notes or
14 other obligations, and subsequent issues of notes or other obligations; to provide for
15 construction; to provide that no notice, proceeding, publication, or referendum shall be
16 required; to provide for dissolution; to provide the procedures connected with all of the
17 foregoing; to repeal conflicting laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

20 This Act shall be referred to as the "Town of Braselton Community Improvement District
21 Act."

1 of the governing body or bodies within which the district is or is to be located, or a body
2 corporate and politic being a community improvement district created and activated
3 pursuant hereto, as the context requires or permits.

4 (5) "Electors" means the owners of real property within the given district which is
5 subject to taxes, fees, and assessments levied by the board, as they appear on the most
6 recent ad valorem real property tax return records of Jackson, Barrow, Gwinnett, and Hall
7 County (as applicable), or one officer or director of a corporate elector, one trustee of a
8 trust which is an elector, one partner of a partnership elector, or one designated
9 representative of an elector whose designation is made in writing to the respective county
10 tax commissioner and the Town Clerk of the Town of Braselton at least ten days prior to
11 an election. An owner of property that is subject to taxes, fees, or assessments levied by
12 the board shall have one vote for an election based on numerical majority. An owner of
13 multiple parcels has one vote, not one vote per parcel, for an election based on numerical
14 majority. Multiple owners of one parcel have one vote for an election based on numerical
15 majority which must be cast by one of their number who is designated in writing.

16 (6) "Equity electors" means electors who cast votes equal to each \$1,000.00 value of all
17 owned real property within the given district which is then subject to taxes, fees, and
18 assessments levied by the board. Value of real property shall be the assessed value.

19 (7) "Forestry" means the planting and growing of trees for sale in a program which
20 includes reforestation of harvested trees, regular underbrush and undesirable growth
21 clearing, fertilizing, pruning, thinning, cruising, and marking which indicate an active tree
22 farming operation. The term does not include the casual growing of trees on land
23 otherwise idle or held for investment, even though some harvesting of trees may occur
24 thereon.

25 (8) "Hereby," "herein," "hereunder," and "herewith" mean under this Act.

26 (9) "Mayor" means the mayor of the Town of Braselton.

27 (10) "Project" means the acquisition, construction, installation, modification, renovation,
28 or rehabilitation of land, interests in land, buildings, structures, facilities, or other
29 improvements, including operation of facilities or other improvements, located or to be
30 located within or otherwise providing service to the district and the acquisition,
31 installation, modification, renovation, rehabilitation, or furnishing of fixtures, machinery,
32 equipment, furniture, or other property of any nature whatsoever used on, in, or in
33 connection with any such land, interest in land, building, structure, facility, or other
34 improvements for the purposes set forth in Section 2 of this Act.

35 (11) "Property owner" or "owner of real property" means any entity or person shown as
36 a taxpayer for one or more parcels of real estate on the most recent ad valorem tax

1 records of the respective county within the district as certified by the respective County
2 Tax Commissioner.

3 (12) "Property used nonresidentially" means property or any portion thereof used for
4 neighborhood shopping, planned shopping centers, general commercial, transient lodging
5 facilities, tourist services, office or institutional, office services, light industry, heavy
6 industry, central business district, parking, or other commercial or business use or vacant
7 land zoned or approved for any of the aforementioned uses which do not include
8 residential.

9 (13) "Residential" means a specific structure, work, or improvement undertaken
10 primarily to provide either single family or multifamily dwelling accommodations for
11 persons and families of four units or less, and for which an application for homestead
12 exemption has been filed and accepted.

13 (14) "Taxpayer" means an entity or person paying ad valorem taxes on real property,
14 whether on one or more parcels of property within the district. Multiple owners of one
15 parcel shall constitute one taxpayer and shall designate in writing one of their number to
16 represent the whole.

17 (15) "Town council" means the Town Council of the Town of Braselton.

18 (16) "Town governing authority or body" means the Town Council and the Mayor.

19 (17) "Value" or "assessed value" of property means the values established in the most
20 recent ad valorem tax reassessment of such properties certified by the respective County
21 Board of Tax Assessors.

22 **SECTION 4.**

23 **Creation.**

24 Pursuant to Article IX, Section VII of the Constitution of the State of Georgia, there is
25 created one or more community improvement districts to be located in the Town of
26 Braselton, Georgia, wholly within the incorporated area thereof, which shall be activated
27 upon compliance with the conditions set forth in this section. Each district, if more than one
28 are implemented, shall be governed as directed by this Act. The conditions for such
29 activation shall be:

- 30 (1) The adoption of a resolution consenting to the creation of the community
31 improvement district or districts by the governing authority for the Town of Braselton
32 and imposing such conditions on the projects and activities which may be undertaken as
33 will ensure their compatibility with adopted Town policies and planning for the area; and
34 (2) The written consent to the creation of the community improvement district by:

1 (A) A majority of the owners of real property within the given district which will be
2 subject to taxes, fees, and assessments levied by the board of the given district; and

3 (B) The owners of real property within the given district which constitutes at least 75
4 percent by value of all real property within the district which will be subject to taxes,
5 fees, and assessments levied by the board. For this purpose, value shall be determined
6 by the most recent approved county ad valorem tax digest.

7 The written consent provided for in this paragraph shall be submitted to the respective
8 county tax commissioner, who shall certify whether subparagraphs (A) and (B) of this
9 paragraph have been satisfied with respect to such proposed district. The district or
10 districts or respective board or boards created under this Act shall not transact any
11 business or exercise any powers under this Act until the foregoing conditions are met.
12 A copy of such resolutions shall be filed with the Secretary of State and with the Town
13 Clerk of the Town of Braselton, who shall each maintain a record of the district activated
14 under this Act. Nothing contained herein shall limit the ability of the governing authority
15 of the Town of Braselton to implement more than one community improvement district
16 so long as the requirements hereof and of the Georgia Constitution are satisfied. The
17 provisions of this Act shall be construed so as to provide for the independent application
18 and exercise of all powers for each district contained herein including the ability to levy
19 taxes as outlined herein as separately and independently authorizing and empowering
20 such separate community improvement districts created hereby. Nothing contained
21 herein shall require the governing authority of the Town of Braselton to create more than
22 one community improvement district, or to require the creation of a new district if the
23 district boundaries of an existing district are changed, added to, supplemented, or
24 modified.

25 **SECTION 5.**

26 Administration, appointment, and election of board members.

27 Each district created pursuant hereto shall be administered either by the governing authority
28 or by a board as prescribed under this Act. In the event that a district is to be governed by
29 such a board, the board shall be composed of a minimum of seven board members to be
30 appointed and elected as hereinafter provided:

31 (1) Two board members shall be appointed by the Mayor of the Town of Braselton, and
32 confirmed by a majority of the Town council, one of whom shall be a member of the
33 Town council, to serve in posts 6 and 7. Two board members shall be elected by the vote
34 of electors, and three members shall be elected by the vote of equity electors. The
35 members representing the electors and equity electors shall be elected to serve in post

1 positions 1 through 5, respectively. Each elected board member must receive a majority
2 of the votes cast for the post for which he or she is a candidate. Votes for posts 1 and 2
3 shall be cast by electors, and votes for posts 3, 4, and 5 shall be cast by the equity
4 electors. The initial term of office for the members representing posts 1 and 3 shall be
5 one year. The initial term of office for the members representing posts 2 and 5 shall be
6 two years, and the initial term of office of the members representing post 3 shall be three
7 years. Thereafter, all terms of office shall be for four years, except the appointed board
8 members who shall serve at the pleasure of the appointing body which appointed him or
9 her. Elected board members shall be subject to recall in the same manner as elected.

10 (2) The initial board members to be elected as provided in paragraph (1) of this section
11 shall be elected in a caucus of electors which shall be held within 120 days after the
12 adoption of the resolution by the Town of Braselton consenting to the creation of the
13 district, and the obtaining of the written consents herein provided at such time and place
14 within the district as the Town of Braselton shall designate after notice thereof shall have
15 been given to said electors by publishing same in the legal organ of the respective county
16 as hereinafter provided. Thereafter, there shall be conducted annually, not later than 120
17 days following the last day for filing ad valorem real property tax returns in the respective
18 county, a caucus of said electors at such time and place within the district as the board
19 shall designate in such notice for the purpose of electing board members to those board
20 member positions whose terms expire or are vacant. If a vacancy occurs in an elected
21 position on the board, the board shall, within 60 days thereof, call a special election to fill
22 the same to be held within 60 days of the call unless such vacancy occurs within 180 days
23 of the next regularly scheduled election, in which case a special election may, but need
24 not, be called. For any election held hereunder, notice thereof shall be given to said
25 electors by publishing notice thereof in the legal organ of the respective county at least
26 once each week for four weeks prior to such election.

27 (3) Board members shall receive no compensation for their services, but shall be
28 reimbursed for actual expenses reasonably incurred in the performance of their duties.
29 They shall elect one of their number as chairperson and another as vice chairperson.
30 They shall also elect a secretary and a treasurer, or a secretary/treasurer, either of whom
31 may, but need not, be a member of the board or an elector.

32 (4) If the boundaries of a district are subsequently changed after creation of the district
33 to include land within a municipality which was not a party to the creation of the district,
34 or if a municipality's boundaries are changed to include land within an existing district,
35 the governing authority of the municipality shall acquire the right to appoint a member
36 to the board of the district upon entering into the cooperation agreement provided for in
37 Section 9 of this Act. If, by municipal annexation or by de-annexation of land from a

1 district, the district no longer includes land within the incorporated area of the Town of
2 Braselton or within a municipality, respectively, then the board member of the district
3 appointed by such governing authority in which the district is no longer located shall
4 cease to be a board member.

5 (5) Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," shall not apply
6 to the election of district board members. Should a vacancy in office of a district board
7 member occur, and the regular caucus of electors is more than six months in the future,
8 a special election shall be called to fill such vacancy, unless it is filled by appointment
9 as hereinabove required. The district board may adopt such bylaws not inconsistent
10 herewith to provide for any matter concerning such elections.

11 SECTION 6.

12 Taxes, fees, and assessments.

13 (a) The board may levy taxes, fees, and assessments within the district only on real property
14 used nonresidentially, specifically excluding all property exempt from ad valorem taxation
15 under the Constitution or laws of the State of Georgia; all property used for residential,
16 agricultural, or forestry purposes; and all tangible personal property and intangible property.
17 Any tax, fee, or assessment so levied shall not exceed 2.5 percent of the aggregate assessed
18 value of all such real property, subject to such limitations as the governing authority for the
19 Town of Braselton may implement with the adoption of the resolution consenting to the
20 creation of said district. The taxes, fees, and assessments levied by the board shall be
21 equitably apportioned among the properties subject to such taxes, fees, and assessments
22 according to the need for governmental services and facilities created by the degree of
23 density of development of each such property. The proceeds of taxes, fees, and assessments
24 levied by the board shall be used only for the purpose of providing those governmental
25 services and facilities set forth in Section 2 of this Act which are specially required by the
26 degree of density of development within the district and not for the purpose of providing
27 those governmental services and facilities provided to the municipality as a whole. Any tax,
28 fee, or assessment so levied shall be collected by the Town of Braselton in the same manner
29 as taxes, fees, and assessments are levied by the Town of Braselton. Delinquent taxes shall
30 bear the same interest and penalties as Town of Braselton ad valorem taxes and may be
31 enforced and collected in the same manner. The proceeds of taxes, fees, and assessments so
32 levied, less a fee to cover the costs of collection of 0.25 percent thereof, but not more than
33 \$10,000.00 in any one calendar year, shall be transmitted as soon as they are acquired by the
34 Town of Braselton to the board, and shall be expended by the board only for the purposes
35 authorized hereby.

1 (b) The board shall levy the taxes provided for in subsection (a) of this section subsequent
 2 to the report of the assessed taxable values for the current calendar year and notify in writing
 3 the collecting governing bodies so they may include the levy on their regular ad valorem tax
 4 bills, if possible.

5 (c) There shall be a segregation of all funds from the levy of taxes, fees, and assessments as
 6 described hereunder for the district, and neither the Town of Braselton nor the respective
 7 county tax commissioner shall expend for any purpose not authorized by the board of this
 8 district any such taxes, fees, or charges assessed and collected hereunder except for such
 9 costs as may be attributed to the billing and collection of such fees, levies, and assessments.

10 (d) If, but for this provision, a parcel of real property is removed from a district or otherwise
 11 would become nontaxable, it shall continue to bear the tax millage levied by the district then
 12 extant upon such parcel for indebtedness of the district then outstanding until said
 13 indebtedness is paid or refunded.

14 **SECTION 7.**

15 **Boundaries of the district.**

16 (a) The boundaries of the district or districts shall be as designated as such by the Town of
 17 Braselton as set forth in the resolution required in Section 4 of this Act, or as may thereafter
 18 be added as hereinafter provided.

19 (b) The boundaries of the district or districts may be increased after the initial creation of a
 20 district if:

21 (1) Written consent of the owners of any real property sought to be annexed is first
 22 obtained;

23 (2) The board of the district adopts a resolution consenting to the annexation; and

24 (3) A resolution is adopted which grants consent to the annexation by the governing
 25 authority of such municipalities as may have area within the district before or after the
 26 annexation.

27 **SECTION 8.**

28 **Debt.**

29 Except as otherwise provided in this section, the district may incur debt without regard to the
 30 requirements of Article IX, Section V of the Constitution of the State of Georgia, which debt
 31 shall be backed by the full faith and credit and taxing power of the district but shall not be
 32 an obligation of the State of Georgia or any other unit of government of the State of Georgia
 33 other than the district; provided, however, that the board and the district may not issue bonds

1 validated under or in accordance with Article 3 of Chapter 82 of Title 36 of the O.C.G.A.,
 2 known as the "Revenue Bond Law," or in accordance with such other successor provisions
 3 governing bond validation generally or as may be provided by law.

4 **SECTION 9.**

5 Cooperation with local governments.

6 The services and facilities provided pursuant hereto may be provided for in a cooperation
 7 agreement executed jointly by the board, the governing body of the Town of Braselton, and
 8 any municipalities and other governmental authorities or agencies within which the district
 9 is partially located. The provisions of this section shall in no way limit the authority of the
 10 Town of Braselton or any such municipality or any such authority to provide services or
 11 facilities within the district; and the Town of Braselton or such municipalities shall retain full
 12 and complete authority and control over any of its facilities located within its respective areas
 13 of any district. Said control shall include but not be limited to the modification of, access to,
 14 and degree and type of services provided through or by facilities of the municipality or
 15 county. Nothing contained in this section shall be construed to limit or preempt the
 16 application of any governmental laws, ordinances, resolutions, or regulations to the district
 17 or the services or facilities provided therein.

18 **SECTION 10.**

19 Powers.

20 (a) The district and the board created pursuant hereto shall have all of the powers necessary
 21 or convenient to carry out and effectuate the purposes and provisions hereof, including,
 22 without limiting the generality of the foregoing, the power to:

- 23 (1) Bring and defend actions;
 24 (2) Adopt and amend a corporate seal;
 25 (3) Make and execute contracts, agreements, and other instruments necessary or
 26 convenient to exercise the powers of the board or to further the public purposes for which
 27 the district is created including, but not limited to, contracts for construction of projects,
 28 leases of projects, contracts for sale of projects, agreements for loans to finance projects,
 29 contracts with respect to the use of projects, and agreements with other jurisdictions or
 30 community improvement districts regarding multijurisdictional projects or services or for
 31 other cooperative endeavors to further the public purposes of the district;

1 (4) Acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real and
2 personal property of every kind and character, or any interest therein, in furtherance of
3 the public purposes of the district;

4 (5) Finance (by loan, private grant, lease, or otherwise), construct, erect, assemble,
5 purchase, acquire, own, repair, remodel, renovate, rehabilitate, modify, maintain, extend,
6 improve, install, sell, equip, expand, add to, operate, or manage projects and to pay the
7 cost of any project from the proceeds of the district or any other funds of the district, or
8 from any contributions or loans by persons, corporations, partnerships (whether limited
9 or general), or other entities, all of which the board is authorized to receive, accept, and
10 use;

11 (6) Borrow money to further or carry out its public purposes and to execute bonds, notes,
12 other obligations, leases, trust indentures, trust agreements, agreements for the sale of its
13 notes, or other obligations, loan agreements, security agreements, assignments, and such
14 other agreements or instruments as may be necessary or desirable, in the judgment of the
15 board, to evidence and to provide security for such borrowing;

16 (7) Issue notes or other obligations of the district and use the proceeds thereof for the
17 purpose of paying all or any part of the cost of any project and otherwise to further or
18 carry out the public purposes of the district and to pay all reasonably incurred costs of the
19 board incidental to, or necessary and appropriate to, furthering or carrying out such
20 purposes; provided, however, that the board and the district may not issue bonds
21 validated under or in accordance with Article 3 of Chapter 82 of Title 36 of the O.C.G.A.,
22 known as the "Revenue Bond Law," or in accordance with such other successor
23 provisions governing bond validation generally or as may be provided by law;

24 (8) Make application directly or indirectly to any private source for loans, grants,
25 guarantees, or other financial assistance in furtherance of the district's public purposes
26 and to accept and use the same upon such terms and conditions as are prescribed by such
27 private source; provided, however, that the district and the board shall not have the power
28 to apply for, receive, administer, or utilize grants from federal, state, county, or municipal
29 governments or agencies or any other public sources;

30 (9) Enter into agreements with the federal government or any agency thereof to use the
31 facilities or services of the federal government or any agency thereof in order to further
32 or carry out the public purposes of the district;

33 (10) Contract for any period, not exceeding 50 years, with the State of Georgia, state
34 institutions, or any municipal corporation, county, or political subdivision of this state for
35 the use by the district of any facilities or services of the state or any such state institution,
36 municipal corporation, county, or political subdivision of this state, or for the use by any
37 state institution or any municipal corporation, county, or political subdivision of this state

1 of any facilities or services of the district, provided that such contracts shall deal with
2 such activities and transactions as the district and any such political subdivision with
3 which the district contracts are authorized by law to undertake;

4 (11) Grant, mortgage, convey, assign, or pledge its property, revenues or taxes, or fees
5 or assessments to be received as security for its notes, or other indebtedness and
6 obligations;

7 (12) Receive and use the proceeds of any tax levied by any county or any municipal
8 corporation to pay the costs of any project or for any other purpose for which the board
9 may use its own funds pursuant hereto;

10 (13) Receive and administer gifts, private grants, and devises of money and property of
11 any kind and to administer trusts;

12 (14) Use any real property, personal property, or fixtures or any interest therein or to rent
13 or lease such property to or from others or make contracts with respect to the use thereof
14 or to sell, lease, exchange, transfer, assign, pledge, or otherwise dispose of or grant
15 options for any such property in any manner as it deems to be the best advantage of the
16 district and the public purposes thereof;

17 (15) Appoint, select, and employ engineers, surveyors, architects, urban or Town
18 planners, fiscal agents, attorneys, and others and to fix their compensation and pay their
19 expenses;

20 (16) Encourage and promote the improvement and development of the district and to
21 make, contract for, or otherwise cause to be made long range plans or proposals for the
22 district in cooperation with the Town of Braselton and any municipal corporations in
23 which the district is wholly or partially located;

24 (17) Invest its funds, whether derived from the issuance of its bonds or otherwise, in such
25 manner as it may deem prudent and appropriate, without further restriction;

26 (18) Adopt bylaws governing the conduct of business by the board, the election and
27 duties of officers of the board, and other matters which the board determines to deal with
28 in its bylaws;

29 (19) Exercise any power granted by the laws of this state to public or private
30 corporations which is not in conflict with the public purposes of the district; and

31 (20) Do all things necessary or convenient to carry out the powers conferred hereby.

32 (b) The powers enumerated in subsection (a) of this section are cumulative of and in addition
33 to those powers enumerated herein and elsewhere in this Act, and no such power limits or
34 restricts any other power of the board except where expressly noted.

1 effective, no new projects may be undertaken, obligations or debts incurred, or property
2 acquired.

3 (c) Upon a successful dissolution action, all noncash assets of the district other than public
4 facilities or land or easements to be used for such public facilities, as described in Section
5 2 of this Act, shall be reduced to cash and, along with all other cash on hand, shall be applied
6 to the repayment of any debt obligation of the district. Any cash remaining after all
7 outstanding obligations are satisfied shall be refunded to each property owner in direct
8 proportion to the total amount in taxes, fees, or assessments paid by the property owner
9 relative to the total revenues paid by all properties in the district.

10 (d) When a dissolution becomes effective, the municipal governing authority, or the
11 governing authority of a county if wholly within the incorporated area thereof, shall take title
12 to all property previously in the ownership of the district and all taxes, fees, and assessments
13 of the district shall cease to be levied and collected.

14 (e) A district may be reactivated in the same manner as an original activation.

15 **SECTION 14.**

16 Repealer.

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