

Senate Bill 378

By: Senators Unterman of the 45th, Thomas of the 54th, Hooks of the 14th, Johnson of the 1st and Williams of the 19th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 49 of the Official Code of Georgia Annotated, relating to social services, so  
2 as to transfer the functions, duties, and employees of the Division of Aging Services of the  
3 Department of Human Resources to a newly established Department of Aging; to revise  
4 various titles of the Official Code of Georgia Annotated for purposes of conformity; to  
5 provide for related matters; to provide an effective date; to repeal conflicting laws; and for  
6 other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended  
10 by adding a new chapter to read as follows:

11 "CHAPTER 6A

12 49-6A-1.

13 The Georgia General Assembly finds that Georgia's burgeoning older adult population  
14 provides unique opportunities and challenges for the state. Georgia has an unprecedented  
15 potential to benefit from the strengths, talents, knowledge, and resources of its growing  
16 older adult population. At the same time, the state has a responsibility to address the  
17 unique needs and concerns of its older adults and their caregivers and, in keeping with  
18 Chapter 6 of this title, to encourage continuous study and research into the needs and  
19 problems of older people under present and future economic and social conditions to plan  
20 for the prevention of dependency and the conservation of human values. To meet these  
21 challenges and capitalize on these opportunities, it is the intent of the General Assembly  
22 to create a Department of Aging.

1 49-6A-2.

2 As used in this chapter, the term:

- 3 (1) 'Board' means the Board of Aging.  
 4 (2) 'Commissioner' means the commissioner of aging.  
 5 (3) 'Department' means the Department of Aging.

6 49-6A-3.

7 (a) There is created the Department of Aging, which shall be the successor entity and  
 8 continuation of the Division of Aging Services of the Department of Human Resources.  
 9 The department shall have the following responsibilities:

- 10 (1) To serve as the lead planning agency for all aging issues in this state;  
 11 (2) To minimize duplication and maximize administrative efficiency by removing  
 12 overlapping functions and streamlining and coordinating functions;  
 13 (3) To develop an infrastructure that encourages older adults to share their unique  
 14 strengths, talents, knowledge, and resources with other community members, whether as  
 15 a volunteer or in a paid position, for the benefit of Georgians of all ages;  
 16 (4) To identify the opportunities for synergy among the Department of Aging and other  
 17 governmental agencies for the mutual benefit of the agencies, their constituencies, and  
 18 the citizens of Georgia as a whole; and  
 19 (5) To simplify the decision-making process to allow the state to respond effectively,  
 20 efficiently, and in a timely manner to the needs and concerns of older adults and to utilize  
 21 fully the knowledge and resources they offer.

22 (b) There is created the position of commissioner of aging. The commissioner shall be the  
 23 chief administrative officer of the Department of Aging and shall be appointed by and shall  
 24 serve at the pleasure of the Governor. The commissioner shall receive a salary to be  
 25 determined by the Governor and shall be in the unclassified service of the state merit  
 26 system. The commissioner may not serve simultaneously as the commissioner of any other  
 27 department. Subject to the general policy and rules and regulations of the board, the  
 28 commissioner shall supervise, direct, account for, organize, plan, administer, and execute  
 29 the functions of the Department of Aging.

30 49-6A-4.

31 (a)(1) There is created the Board of Aging which shall establish the general policy to be  
 32 followed by the Department of Aging. The board shall consist of 15 members, with at  
 33 least one from each of the 12 area agency on aging service areas in the state. The  
 34 remaining three members shall be selected from the two area agency on aging service  
 35 areas with the largest concentration of older adults. All members of the board shall be

1 appointed by the Governor and confirmed by the Senate. The Governor shall make such  
2 appointments with a view toward achieving minority representation, representation of  
3 women, and equitable geographic representation on the board.

4 (2) The Governor shall designate the initial terms of the members of the board as  
5 follows: five members shall be appointed for two years; five members shall be appointed  
6 for three years; and five members shall be appointed for four years. Thereafter, all  
7 succeeding appointments shall be for four-year terms from the expiration of the previous  
8 term and shall continue until a successor member has been appointed.

9 (3) Vacancies in office shall be filled by appointment by the Governor in the same  
10 manner as the appointment to the position on the board which becomes vacant, and the  
11 appointment shall be submitted to the Senate for confirmation at the next session of the  
12 General Assembly. An appointment to fill a vacancy, other than by expiration of a term  
13 of office, shall be for the balance of the unexpired term.

14 (4) There shall be a chairperson of the board, elected by and from the membership of the  
15 board, who shall be the presiding officer of the board.

16 (5) The members of the board shall receive per diem and expenses as shall be set and  
17 approved by the Office of Planning and Budget and in conformance with rates and  
18 allowances set for members of other state boards.

19 (b) The board shall:

20 (1) Develop programs to successfully provide services to Georgia's elderly;

21 (2) Develop initiatives to further the goals of the department's various divisions and  
22 offices;

23 (3) Identify opportunities for synergy with other governmental agencies;

24 (4) Promote collaborations with other public and private partners to meet the goals  
25 identified by the department for engaging Georgia's older adults;

26 (5) Collaborate with academic institutions to evaluate programs, develop best practices,  
27 encourage innovation, and advance further aging research; and

28 (6) Assure accountability among the department staff, providers of services, public  
29 policy makers, and consumers to be served.

30 (c) The board shall perform duties required of it by this chapter and Chapter 6 of this title  
31 and shall, in addition thereto, be responsible for promulgation of all rules and regulations  
32 not in conflict with this chapter or Chapter 6 of this title that may be necessary and  
33 appropriate to the administration of the department, to the accomplishment of the purposes  
34 of this chapter, and to the performance of the duties and functions of the department as set  
35 forth in this chapter and Chapter 6 of this title.

1 (d) The board shall oversee the budget of the department and shall submit an annual  
2 request for funding to the Office of Planning and Budget in accordance with Code Section  
3 45-12-78.

4 49-6A-5.

5 (a) The Department of Aging shall perform the functions and assume the duties and  
6 powers exercised on June 30, 2008, by the Division of Aging Services of the Department  
7 of Human Resources. The department shall also assume powers and responsibility with  
8 respect to the expenditure of any funds appropriated to the department or the Department  
9 of Human Resources as its predecessor including, without being limited to, funds received  
10 by the state pursuant to the Older Americans Act of 1965. The divisions of the department  
11 shall be:

12 (1) The Community Care Services Program Section of the Division of Aging Services,  
13 as it existed on June 30, 2008, is continued in existence on and after July 1, 2008, but  
14 shall thereafter be the Division of Community Care Services within the department;

15 (2) The Program Development and Operations Section of the Division of Aging  
16 Services, as it existed on June 30, 2008, is continued in existence on and after July 1,  
17 2008, but shall thereafter be the Division of Program Development and Operations within  
18 the department;

19 (3) The Elder Rights and Advocacy Section of the Division of Aging Services, as it  
20 existed on June 30, 2008, is continued in existence on and after July 1, 2008, but shall  
21 thereafter be the Division of Elder Rights and Advocacy within the department;

22 (4) The Adult Protective Services Section of the Division of Aging Services, as it existed  
23 on June 30, 2008, is continued in existence on and after July 1, 2008, but shall thereafter  
24 be the Division of Adult Protective Services within the department;

25 (5) The Planning and Evaluation Section of the Division of Aging Services, as it existed  
26 on June 30, 2008, is continued in existence on and after July 1, 2008, but shall thereafter  
27 be the Division of Planning and Evaluation within the department;

28 (6) The Fiscal and Administrative Section of the Division of Aging Services, as it existed  
29 on June 30, 2008, is continued in existence on and after July 1, 2008, but shall thereafter  
30 be the Division of Fiscal and Administrative Services within the department;

31 (7) The department may further create a Division of Communities for a Lifetime which  
32 shall come into existence on or after July 1, 2008. This division shall work to support  
33 older adults' participation in their communities. Specific functions of this division shall  
34 be:

35 (A) To educate Georgia's residents, businesses, and public and private entities about  
36 the strengths, talents, knowledge, and resources of Georgia's older adults;

1 (B) To encourage older adults to become involved in their communities, for the benefit  
2 of Georgians of all ages, through volunteerism with local schools, hospitals, charitable  
3 organizations, and religious organizations, among others;

4 (C) To promote liveable communities through consultation with existing resources at  
5 the local, county, and state levels to make crucial civic improvements in such areas as  
6 housing, health care, transportation, accessibility, business partnerships, community  
7 education, and efficient use of natural resources;

8 (D) To encourage businesses, institutions of higher education, and older Georgians to  
9 identify opportunities for intergenerational entrepreneurship collaborations;

10 (E) To promote the adoption of employment initiatives that would allow older adults  
11 to remain active in the work force if they so choose;

12 (F) To collaborate with local and state agencies and other public and private entities  
13 to encourage older Georgians to remain active and healthy through leisure activities  
14 available across the state; and

15 (G) To support and advance aging research initiatives; and

16 (8) Such other divisions as the board may establish within the department.

17 (b) The program administrators of the Community Care Services Program Section, the  
18 Program Development and Operations Section, the Elder Rights and Advocacy Section,  
19 the Adult Protective Services Section, the Planning and Evaluation Section, and the Fiscal  
20 and Administrative Section of the Division of Aging Services in office on June 30, 2008,  
21 shall become directors of the respective divisions which those predecessor sections have  
22 become on and after July 1, 2008, and until such time as the commissioner appoints other  
23 directors of such divisions.

24 (c) There is transferred to the department the long-term care ombudsman program, which  
25 shall be a continuation of the existing long-term care ombudsman program established  
26 pursuant to Article 3 of Chapter 8 of Title 31.

27 (d) There is transferred to the department all functions relating to the Georgia Council on  
28 Aging created pursuant to Code Section 49-6-20.

29 49-6A-6.

30 (a) To assist in the transition of functions, until July 1, 2009, the State Merit System of  
31 Personnel Administration shall perform payroll, accounting, and purchasing services and  
32 other general support services.

33 (b) All persons employed in a predecessor section on June 30, 2008, shall, on July 1, 2008,  
34 become employees of the department within the division that such predecessor section has  
35 become. Such employees shall be subject to the employment practices and policies of the  
36 department on and after July 1, 2008, but the compensation and benefits of such transferred

1 employees shall not be reduced as a result of such transfer. Employees who are subject to  
2 the rules of the State Personnel Board and thereby under the State Merit System of  
3 Personnel Administration and who are transferred to the department shall retain all existing  
4 rights under the State Merit System of Personnel Administration. Retirement rights of such  
5 transferred employees existing under the Employees' Retirement System of Georgia or  
6 other public retirement systems on June 30, 2008, shall not be impaired or interrupted by  
7 the transfer of such employees and membership in any such retirement system shall  
8 continue in the same status possessed by the transferred employees on June 30, 2008.  
9 Accrued annual and sick leave possessed by said employees on June 30, 2008, shall be  
10 retained by said employees as employees of the department.

11 (c)(1) The department shall conform to federal standards for a merit system of personnel  
12 administration in any respects necessary for receiving federal grants and the board is  
13 authorized and empowered to effect such changes as may, from time to time, be  
14 necessary in order to comply with such standards.

15 (2) The department is authorized to employ, on a full-time or part-time basis, such  
16 medical, supervisory, institutional, and other professional personnel and such clerical and  
17 other employees as may be necessary to discharge the duties of the department under this  
18 chapter. The department is also authorized to contract for such professional services as  
19 may be necessary.

20 (3) Classified employees of the department under this chapter shall in all instances be  
21 employed and dismissed in accordance with rules of the State Personnel Board.

22 (4) All personnel of the department are authorized to be members of the Employees'  
23 Retirement System of Georgia as provided in Chapter 2 of Title 47. All rights, credits,  
24 and funds in that retirement system which are possessed by state personnel transferred  
25 by provisions of this chapter to the department, or otherwise had by persons at the time  
26 of employment with the department, are continued and preserved, it being the intention  
27 of the General Assembly that such persons shall not lose any rights, credits, or funds to  
28 which they may be entitled prior to becoming employees of the department.

29 (d) The department shall succeed to all rules, regulations, policies, procedures, and  
30 administrative orders of the predecessor agency that were in effect on June 30, 2008, or  
31 scheduled to go into effect on or after July 1, 2008, and which relate to the functions  
32 transferred to the department by this chapter. Such rules, regulations, policies, procedures,  
33 and administrative orders shall remain in effect until amended, repealed, superseded, or  
34 nullified by proper authority or as otherwise provided by law. Rules of the department  
35 shall be adopted, promulgated, and implemented as provided in Chapter 13 of Title 50, the  
36 'Georgia Administrative Procedure Act.'

1 (e) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
2 agreements, and other transactions entered into before July 1, 2008, by any predecessor  
3 section and which pertain to the functions transferred to the department by this chapter  
4 shall continue to exist; and none of these rights, privileges, entitlements, and duties are  
5 impaired or diminished by reason of the transfer of the functions to the department. In all  
6 such instances, the Department of Aging shall be substituted for the predecessor agency,  
7 and the Department of Aging shall succeed to the rights and duties under such contracts,  
8 leases, agreements, and other transactions.

9 (f) The commissioner is authorized to transfer department employees from one division  
10 to another division within the department.

11 (g) All office equipment, furniture, and other assets in the possession of the Division of  
12 Aging Services, the long-term care ombudsman program, and the Georgia Council on  
13 Aging which are used or held exclusively or principally by personnel transferred under this  
14 subsection shall be transferred to the department on July 1, 2008.

15 (h) Funding for functions and positions transferred to the department under this Code  
16 section shall be transferred as provided in Code Section 45-12-90.

17 (i) Information technology developed for the use of the Division of Aging Services of the  
18 Department of Human Resources as it existed on June 30, 2008, including the Aging  
19 Information System and other such technology shall be transferred to the department on  
20 July 1, 2008.

21 49-6A-7.

22 (a) Subject to approval by the board, the commissioner shall have the power to make and  
23 publish reasonable rules and regulations not inconsistent with this title or other laws or with  
24 the Constitution of this state or of the United States for the administration of this chapter  
25 or any law which it is his or her duty to administer.

26 (b) The commissioner may prescribe forms as he or she deems necessary for the  
27 administration and enforcement of this chapter or any law which it is his or her duty to  
28 administer.

29 (c) The authority granted to the commissioner pursuant to this Code section shall be  
30 exercised at all times in conformity with Chapter 13 of Title 50, the 'Georgia  
31 Administrative Procedure Act.'

32 (d) Rules and regulations previously adopted which relate to functions performed by the  
33 Division of Aging Services of the Department of Human Resources as it existed on June  
34 30, 2008, shall remain in full force and effect as rules and regulations of the Department  
35 of Aging until amended, repealed, or superseded by rules or regulations adopted by the  
36 commissioner of aging. The following rules and regulations shall remain in full force and

1 effect as rules and regulations of the referenced department until amended, repealed, or  
 2 superseded by rules or regulations adopted by the referenced department:

3 (1) All rules and regulations previously adopted by the Community Care Services  
 4 Program of the Division of Aging Services of the Department of Human Resources which  
 5 relate to functions transferred under this chapter to the Department of Aging;

6 (2) All rules and regulations previously adopted by the Program Development and  
 7 Operations Section of the Division of Aging Services of the Department of Human  
 8 Resources which relate to functions transferred under this chapter to the Department of  
 9 Aging;

10 (3) All rules and regulations previously adopted by the Elderly Rights and Advocacy  
 11 Section of the Division of Aging Services of the Department of Human Resources which  
 12 relate to functions transferred under this chapter to the Department of Aging;

13 (4) All rules and regulations previously adopted by the Office of the State Long Term  
 14 Care Ombudsman of the Division of Aging Services of the Department of Human  
 15 Resources which relate to functions transferred under this chapter to the Department of  
 16 Aging;

17 (5) All rules and regulations previously adopted by the Adult Protection Services Section  
 18 of the Division of Aging Services of the Department of Human Resources which relate  
 19 to functions transferred under this chapter to the Department of Aging;

20 (6) All rules and regulations previously adopted by the Planning and Evaluation Section  
 21 of the Division of Aging Services of the Department of Human Resources which relate  
 22 to functions transferred under this chapter to the Department of Aging;

23 (7) All rules and regulations previously adopted by the Fiscal and Administrative Section  
 24 of the Division of Aging Services of the Department of Human Resources which relate  
 25 to functions transferred under this chapter to the Department of Aging; and

26 (8) All other rules and regulations previously adopted which relate to functions  
 27 transferred under this chapter to the Department of Aging.

28 (e) All valid licenses, permits, certificates, and similar authorizations previously issued by  
 29 any department or agency with respect to any function transferred as provided in this  
 30 chapter shall continue in effect until the same expire by their terms unless they are  
 31 suspended, revoked, or otherwise made ineffective as provided by law."

## 32 **SECTION 2.**

33 The following Code sections of the Official Code of Georgia Annotated are amended by  
 34 striking "Division of Aging Services", "Division of Aging Services of the Department of  
 35 Human Resources", or "Office of Aging within the Department of Human Resources"  
 36 wherever such terms occur and inserting in its place "Department of Aging":

- 1 (1) Code Section 10-1-855, relating to referral procedures to provide intervention and  
 2 assistance with respect to unfair or deceptive practices toward the elderly;
- 3 (2) Code Section 29-10-3, relating to qualifications and requirements of public  
 4 guardians;
- 5 (3) Code Section 29-10-4, relating to registration of public guardians with the probate  
 6 court;
- 7 (4) Code Section 29-10-10, relating to compensation of public guardians; and
- 8 (5) Code Section 29-10-11, relating to appropriation of funds for compensation of public  
 9 guardians in certain circumstances.

### 10 SECTION 3.

11 Chapter 5 of Title 30 of the Official Code of Georgia Annotated, relating to the "Disabled  
 12 Adults and Elder Persons Protection Act," is amended by revising Code Section 30-5-3,  
 13 relating to definitions, by adding a new paragraph to read as follows:

14 "(2.1) 'Commissioner' means the commissioner of aging."

### 15 SECTION 4.

16 Said chapter is further amended in Code Section 30-5-3, relating to definitions, by revising  
 17 paragraphs (4) and (5) as follows:

18 "(4) 'Department' means the Department of ~~Human Resources~~ Aging.

19 (5) ~~'Director' means the director of the Division of Aging Services of the Department of~~  
 20 ~~Human Resources, or the director's designee.~~ Reserved."

### 21 SECTION 5.

22 Said chapter is further amended by striking "director" and "director's" wherever such terms  
 23 occur in the following Code sections and inserting in their respective places "commissioner"  
 24 and "commissioner's":

25 (1) Code Section 30-5-4, relating to reporting of need for protective services;

26 (2) Code Section 30-5-5, relating to investigation of reports of need for protective  
 27 services;

28 (3) Code Section 30-5-6, relating to cooperation of other public agencies with director;  
 29 and

30 (4) Code Section 30-5-7, relating to confidentiality of public records.



- 1 (1) Shall be the lead agency in coordinating and purchasing health care benefit plans for  
2 state and public employees, dependents, and retirees and may also coordinate with the  
3 board of regents for the purchase and administration of such health care benefit plans for  
4 its members, employees, dependents, and retirees;
- 5 (2) Is authorized to plan and coordinate medical education and physician workforce  
6 issues;
- 7 (3) Is authorized to convene at least quarterly a state agency coordinating committee  
8 ~~comprised~~ composed of the commissioners, directors, chairpersons, or their designees,  
9 of the following agencies involved in health related activities: the Department of Human  
10 Resources, including the Division of Public Health; and the Division of Mental Health,  
11 Developmental Disabilities, and Addictive Diseases, ~~and the Division of Aging Services~~  
12 thereof, the Department of Aging, the Department of Juvenile Justice, the Department of  
13 Corrections, the Insurance Department, the State Merit System of Personnel  
14 Administration, the State Board of Workers' Compensation, and the Governor's Office  
15 of Planning and Budget. The board of regents may also designate a person to serve on the  
16 coordinating committee. The committee will convene for the purposes of planning and  
17 coordinating health issues that have interagency considerations. The commissioner of the  
18 department will serve as the chairperson of the state agency coordinating committee and  
19 will report to the Governor the activities, findings, and recommendations of the  
20 committee;
- 21 (4) Shall investigate the lack of availability of health insurance coverage and the issues  
22 associated with the uninsured population of this state. In particular, the department is  
23 authorized to investigate the feasibility of creating and administering insurance programs  
24 for small businesses and political subdivisions of the state and to propose cost-effective  
25 solutions to reducing the numbers of uninsured in this state;
- 26 (5) Shall study and recommend any additional functions needed to carry out the purposes  
27 of the department, including the creation of a consumer medical advocate. Such  
28 recommendations shall be made to the Governor and General Assembly by December 31,  
29 1999;
- 30 (6) Is authorized to appoint a health care work force policy advisory committee to  
31 oversee and coordinate work force planning activities;
- 32 (7) Is authorized to solicit and accept donations, contributions, and gifts and receive,  
33 hold, and use grants, devises, and bequests of real, personal, and mixed property on  
34 behalf of the state to enable the department to carry out its functions and purposes; and
- 35 (8) Is authorized to award grants, as funds are available, to hospital authorities and  
36 hospitals for public health purposes, pursuant to Code Sections 31-7-94 and 31-7-94.1."

**SECTION 8.**

Said title is further amended in Code Section 31-8-51, relating to definitions relative to the long-term care ombudsman program, as follows:

"31-8-51.

As used in this article, the term:

(1) 'Commissioner' means the commissioner of aging.

~~(1)~~(2) 'Community ombudsman' means a person certified as a community ombudsman pursuant to Code Section 31-8-52.

(3) 'Department' means the Department of Aging.

~~(2)~~(4) 'Long-term care facility' means any skilled nursing home, intermediate care home, or personal care home now or hereafter subject to regulation and licensure by the department.

~~(3)~~(5) 'Resident' means any person who is receiving treatment or care in any long-term care facility who seeks admission to such facility or who has been discharged or transferred from such facility.

~~(4)~~(6) 'State ombudsman' means the state ombudsman established under Code Section 31-8-52."

**SECTION 9.**

Said title is further amended in Code Section 31-8-52, relating to the establishment of the long-term care ombudsman program, as follows:

"31-8-52.

Pursuant to the Older Americans Act of 1965 (P.L. 89-73, 79 Stat. 219), as amended, and as a condition of receiving funds under that act for various programs for older citizens of this state, the Department of ~~Human Resources~~ Aging has been required to establish and operate a long-term care ombudsman program. ~~In order to receive such funds, the department has already established a position of state ombudsman within the state Office of Special Programs.~~ The state ombudsman shall be under the direct supervision of the commissioner or his or her designee and shall be given the powers and duties hereafter provided by this article. The state ombudsman shall be a person qualified by training and experience in the field of aging or long-term care, or both. The state ombudsman shall promote the well-being and quality of life of residents in long-term care facilities and encourage the development of community ombudsman activities at the local level. The state ombudsman may certify community ombudsmen and such certified ombudsmen shall have the powers and duties set forth in Code Sections 31-8-54 and 31-8-55. The state ombudsman shall require such community ombudsmen to receive appropriate training as determined and approved by the department prior to certification. Such training shall

1 include an internship of at least seven working days in a nursing home and at least three  
 2 working days in a personal care home. Upon certification, the state ombudsman shall issue  
 3 an identification card which shall be presented upon request by community ombudsmen  
 4 whenever needed to carry out the purposes of this article. Two years after first being  
 5 certified and every two years thereafter, each such community ombudsman, in order to  
 6 carry out his or her duties under this article, shall be recertified by the state ombudsman as  
 7 continuing to meet the department's standards as community ombudsman."

#### 8 **SECTION 10.**

9 Said title is further amended in Code Section 31-8-53, relating to the duties of the long-term  
 10 care ombudsman, as follows:

11 "31-8-53.

12 The state ombudsman shall:

13 (1) Establish policies and procedures, subject to approval by the commissioner of human  
 14 resources, for receiving, investigating, referring, and attempting to resolve complaints  
 15 made by or on behalf of residents of long-term care facilities concerning any act,  
 16 omission to act, practice, policy, or procedure that may adversely affect the health, safety,  
 17 or welfare of any resident;

18 (2) Investigate and make reports and recommendations to the department and other  
 19 appropriate agencies concerning any act or failure to act by any government agency with  
 20 respect to its responsibilities and duties in connection with long-term care or residents of  
 21 long-term care facilities;

22 (3) Establish a uniform state-wide reporting system to record data about complaints and  
 23 conditions in long-term care facilities and shall collect and analyze such data in order to  
 24 identify significant problems affecting the residents of such facilities;

25 (4) Promote the development of community ombudsmen activities and provide technical  
 26 assistance as necessary; and

27 (5) Make an annual written report, documenting the types of complaints and problems  
 28 reported by residents, to the ~~director of the Office of Special Programs for his~~  
 29 ~~recommendations to the~~ commissioner concerning needed policy and regulatory and  
 30 legislative changes."

#### 31 **SECTION 11.**

32 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended  
 33 in Code Section 49-1-9, relating to home delivered meals, transportation, services for the  
 34 elderly, and preschool children with special needs fund, by revising subsections (b) and (c)  
 35 as follows:

1 "(b) To support programs for home delivered meals, transportation services for the elderly,  
 2 and preschool children with special needs ~~which programs~~ that have been established or  
 3 approved by the department or the Department of Aging, the department and the  
 4 Department of Aging may, without limitation, promote and solicit voluntary contributions  
 5 through the income tax return contribution mechanism established in subsection (f) of this  
 6 Code section, through offers to match contributions by any person with moneys  
 7 appropriated or contributed to the department or the Department of Aging for such  
 8 programs, or through any fund raising or other promotional techniques deemed appropriate  
 9 by the department or the Department of Aging.

10 (c) There is established a special fund to be known as the 'Home Delivered Meals,  
 11 Transportation Services for the Elderly, and Preschool Children with Special Needs Fund.'  
 12 This fund shall consist of all moneys contributed under subsection (b) of this Code section,  
 13 all moneys transferred to the department under subsection (f) of this Code section, and any  
 14 other moneys contributed to this fund or to the home delivered meals, transportation  
 15 services for the elderly, or preschool children with special needs programs of the  
 16 department or the Department of Aging and all interest thereon. All balances in the fund  
 17 shall be deposited in an interest-bearing account identifying the fund and shall be carried  
 18 forward each year so that no part thereof may be deposited in the general treasury. The  
 19 fund shall be administered and the moneys held in the fund shall be expended by the  
 20 ~~department through the Office of Aging~~ Department of Aging in furtherance of home  
 21 delivered meals and transportation services to the elderly programs and by the department  
 22 in furtherance of preschool children with special needs programs."

## 23 SECTION 12.

24 Said title is further amended in Code Section 49-4-162, relating to the establishment of the  
 25 Georgia Qualified Long-term Care Partnership Program, by revising subsection (a) as  
 26 follows:

27 "(a) In accordance with Section 6021 of the Federal Deficit Reduction Act of 2005, there  
 28 is established the Georgia Qualified Long-term Care Partnership Program which shall be  
 29 administered by the Department of Community Health, with the assistance of the  
 30 ~~Commissioner of Insurance~~ and the Department of ~~Human Resources~~ Aging, and which  
 31 shall be for the following purposes:

- 32 (1) To provide incentives for individuals to insure against the costs of providing for their  
 33 long-term care needs;
- 34 (2) To provide a mechanism for individuals to qualify for coverage of the cost of their  
 35 long-term care needs under the state Medicaid program without first being required to  
 36 substantially exhaust their resources;

1 (3) To provide counseling services through the ~~Division~~Department of Aging Services  
 2 of the ~~Department of Human Resources~~ to individuals in planning of their long-term care  
 3 needs; and

4 (4) To alleviate the financial burden on the state's Medicaid program by encouraging the  
 5 pursuit of private initiatives."

### 6 SECTION 13.

7 Said title is further amended in Chapter 6, relating to services for the aging, by adding a new  
 8 Code section to read as follows:

9 "49-6-1.1.

10 As used in this chapter, the term:

11 (1) 'Board' means the Board of Aging.

12 (2) 'Commissioner' means the commissioner of aging.

13 (3) 'Department' means the Department of Aging."

### 14 SECTION 14.

15 Said title is further amended in Code Section 49-6-5, relating to the creation of the Office of  
 16 Aging Section within the Department of Human Resources, as follows:

17 "49-6-5.

18 ~~The Office of Aging Section, administratively established previously within the~~  
 19 ~~department, is statutorily established. The Office of Aging Section established by this Code~~  
 20 ~~section shall have those functions, duties, powers, and responsibilities heretofore assigned~~  
 21 ~~by the board and the commissioner and as hereafter so assigned or as provided by law.~~

22 Reserved."

### 23 SECTION 15.

24 Said title is further amended in Code Section 49-6-20, relating to the creation of the Council  
 25 on Aging, by revising subsection (a) as follows:

26 "(a) There is created the Council on Aging. The council shall be composed of 20 members,  
 27 at least ten of whom shall be consumers of services under programs of the ~~Office of Aging~~  
 28 ~~Section of the Department of Human Resources~~ Department of Aging or similar state  
 29 agencies. The ten consumer members shall include low income and minority older persons  
 30 at least in proportion to their number in the population of the state. The remaining ten  
 31 members of the council shall be representative of major public and private agencies and  
 32 organizations in the state and shall be experienced in or have demonstrated particular  
 33 interest in the needs of the elderly. The members of the council shall be appointed as  
 34 follows:

- 1 (1) Four consumer members and four members representing public and private agencies  
 2 and organizations shall be appointed by the Governor;
- 3 (2) Two consumer members and two members representing public and private agencies  
 4 and organizations shall be appointed by the President of the Senate;
- 5 (3) Two consumer members and two members representing public and private agencies  
 6 and organizations shall be appointed by the Speaker of the House; and
- 7 (4) Two consumer members and two members representing public and private agencies  
 8 and organizations shall be appointed by the commissioner."

9 **SECTION 16.**

10 Said title is further amended in Code Section 49-6-60, relating to legislative intent with  
 11 respect to community care and services for the elderly, as follows:

12 "49-6-60.

13 The purpose of this article is to assist functionally impaired elderly persons in living  
 14 dignified and reasonably independent lives in their own homes or in the homes of relatives  
 15 or caregivers through the development, expansion, reorganization, and coordination of  
 16 various ~~community-based~~ community based services. In recognition of the desire of older  
 17 Georgians to reside at home or with their families as long as possible, the General  
 18 Assembly intends that a continuum of care be established so that functionally impaired  
 19 elderly persons age 60 and older may be assured the least restrictive environment suitable  
 20 to their needs. The General Assembly further intends to maximize the utilization of existing  
 21 community social and health services in order to prevent unnecessary placement of  
 22 individuals in long-term care facilities. The development of innovative approaches to  
 23 program management, staff training, and service delivery that impact on cost avoidance,  
 24 cost effectiveness, and program efficiency shall be encouraged. It is further the intent of  
 25 the General Assembly that the Department of ~~Human Resources~~ Aging shall serve as the  
 26 agency responsible for planning and implementing the provision of ~~community-based~~  
 27 community based services to the elderly reimbursable under the 'Georgia Medical  
 28 Assistance Act of 1977.'"

29 **SECTION 17.**

30 Said title is further amended in Code Section 49-6-61, relating to definitions, as follows:

31 "49-6-61.

32 As used in this article, the term:

- 33 (1) ~~'Aging section' means the single organizational unit within the Department of Human~~  
 34 ~~Resources responsible for the planning and administration of services under the Older~~  
 35 ~~Americans Act of 1965.~~



1 area of that agency. The plan shall also include projected program costs and fees to be  
2 charged for services. The lead agency may exclude from the service plan those individuals  
3 eligible for benefits under the 'Georgia Medical Assistance Act of 1977,' as amended, for  
4 whom there is a reasonable expectation that ~~community-based~~ community based services  
5 would be more expensive than services the individual would otherwise receive which  
6 would have been reimbursable under the 'Georgia Medical Assistance Act of 1977,' as  
7 amended.

8 (e) The department shall develop a plan which shall provide for the implementation of a  
9 community care system in each of the specified geographic service areas by July 1, 1985.  
10 The three-year plan shall be developed concurrent with and integrated into the state plan  
11 on aging required under the Older Americans Act of 1965 and shall provide for  
12 coordination of all ~~community-based~~ community based services for the elderly. The  
13 three-year plan shall include an inventory of existing services and an analysis comparing  
14 the cost of institutional long-term care and the cost of community care and other  
15 ~~community-based~~ community based services for the elderly. ~~The multiyear plan shall be~~  
16 ~~presented to the Board of Human Resources no later than July 31, 1983.~~

17 (f) At the end of the three-year implementation period an annual community care service  
18 plan shall be incorporated into the state plan on aging.

19 (g) The department shall submit on January 1 of each year, beginning in 1984, a progress  
20 report on the implementation of the plan required by subsection (e) of this Code section to  
21 the Speaker of the House of Representatives, the Senate Committee on Assignments, the  
22 ~~chairman~~ chairperson of the House Committee on Health and Human Services ~~Committee~~,  
23 and the ~~chairman~~ chairperson of the Senate Health and Human Services Committee.

24 (h) In accordance with rules promulgated by the department, lead agencies may collect  
25 fees for community care case management and other services. Such fees shall be  
26 established on a sliding scale based upon income and economic need. Fees ~~will~~ shall not  
27 be charged those individuals for the mandatory assessment described in subsection (e) of  
28 Code Section 49-6-63. Lead agencies may accept contributions of money or contributions  
29 in kind from functionally impaired elderly persons, members of their families, or other  
30 interested persons or organizations. Such contributions may not be a condition of services  
31 and shall only be used to further the provision of community care services.

32 (i) Funding for services under this article shall be in addition to and not in lieu of funding  
33 for existing community services for the elderly. The department and the lead agency shall  
34 ensure that all other funding sources available, including reimbursement under the 'Georgia  
35 Medical Assistance Act of 1977' and the Older Americans Act of 1965, have been used  
36 prior to utilizing state funds for community care for the elderly."



**SECTION 21.**

Said title is further amended in Code Section 49-6-81, relating to legislative intent of the "Adult Day Center for Aging Adults Licensure Act," which will be effective upon appropriation of funds, as follows:

"49-6-81.

The intent of the General Assembly is to promote, safeguard, and protect the well-being of adults participating in adult day care or adult day health services by authorizing, promoting, and supporting licensure regulations for adult day care and adult day health services providers. It is further the intent of the General Assembly that the Department of ~~Human Resources~~ Aging shall serve as the agency responsible for promulgating, implementing, and enforcing the licensure regulations."

**SECTION 22.**

Said title is further amended in Code Section 49-6-82, relating to definitions relative to the "Adult Day Center for Aging Adults Licensure Act," which will be effective upon appropriation of funds, by revising paragraph (5) as follows:

"(5) 'Department' means the Department of ~~Human Resources~~ Aging."

**SECTION 23.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval; provided, however, Sections 21 and 22 shall become effective only if funds are specifically appropriated for the purpose of funding the "Adult Day Center for Aging Adults Licensure Act" (Ga. L. 2003, p. 298).

**SECTION 24.**

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