

House Bill 1215

By: Representatives Davis of the 109<sup>th</sup>, Barnard of the 166<sup>th</sup>, Jacobs of the 80<sup>th</sup>, Casas of the 103<sup>rd</sup>, and Lunsford of the 110<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 44 of Title 36 of the Official Code of Georgia Annotated, the  
2 "Redevelopment Powers Law," so as to eliminate provisions for school system and school  
3 tax participation in tax allocation financing for redevelopment purposes; to state legislative  
4 intent with respect to transactions previously entered into and obligations previously  
5 incurred; to provide for other related matters; to provide an effective date; to repeal  
6 conflicting laws; and for other purposes.

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

8 **SECTION 1.**

9 Chapter 44 of Title 36 of the Official Code of Georgia Annotated, the "Redevelopment  
10 Powers Law," is amended by adding a new Code section to read as follows:

11 "36-44-2.1.

12 The General Assembly finds that the decision of the Georgia Supreme Court in Woodham  
13 v. City of Atlanta (S07A1309, February 11, 2008) has invalidated the use of school taxes  
14 under this chapter, at least prospectively. It is the intent of the General Assembly in  
15 enacting the 2008 amendments to this chapter to conform this chapter to the decision of the  
16 Supreme Court for the prospective guidance and use of political subdivisions. The  
17 enactment of the 2008 amendments to this chapter is not intended in and of itself to affect  
18 the validity of any transactions previously entered into or to suggest any legislative  
19 determination with respect to whether school taxes may or may not continue to be used for  
20 purposes of transactions previously entered into and obligations previously incurred under  
21 this chapter."

22 **SECTION 2.**

23 Said chapter is further amended in Code Section 36-44-3, relating to definitions, by revising  
24 the introductory language of paragraph (1), subparagraph (G) of paragraph (8), and paragraph  
25 (16) as follows:

1 "(1) 'Ad valorem property taxes' means all ad valorem property taxes levied by each  
 2 political subdivision ~~and each county and independent board of education consenting to~~  
 3 ~~the inclusion of that board of education's property taxes as being applicable to a tax~~  
 4 ~~allocation district as provided by Code Section 36-44-9, except:"~~

5 "(G) Payments to a political subdivision or board of education in lieu of taxes to  
 6 compensate for any loss of tax revenues or for any capital costs incurred because of  
 7 redevelopment activity; provided, however, that any such payments to a political  
 8 subdivision ~~or board of education~~ shall not exceed in any year the amount of the  
 9 contribution to the tax allocation increment in that year by such political subdivision  
 10 ~~or board of education; and"~~

11 "(16) 'Taxable property' means all real and personal property subject to ad valorem  
 12 taxation by a political subdivision, ~~including property subject to local ad valorem taxation~~  
 13 ~~for educational purposes."~~

### 14 SECTION 3.

15 Said chapter is further amended in Code Section 36-44-8, relating to creation of tax  
 16 allocation districts, by revising paragraph (1) as follows:

17 "(1) Preparation by the redevelopment agency of a redevelopment plan for the proposed  
 18 tax allocation district and its submission for consent to the political subdivision ~~or board~~  
 19 ~~of education~~ required to consent, if the plan proposes to include in the tax allocation  
 20 increment ad valorem property taxes levied by a political subdivision ~~or board of~~  
 21 ~~education~~ required to consent to such inclusion under Code Section 36-44-9, or if the plan  
 22 proposes to pledge for payment or security for payment of tax allocation bonds and other  
 23 redevelopment costs the general funds of a county required to consent to such inclusion  
 24 under Code Section 36-44-9;"

### 25 SECTION 4.

26 Said chapter is further amended by revising Code Section 36-44-9, relating to computation  
 27 of tax allocation increments of districts, as follows:

28 "36-44-9.

29 (a) When a tax allocation district is created within the area of operation of a municipality  
 30 by the local legislative body of such municipality, property taxes for computing tax  
 31 allocation increments shall be based on all ad valorem property taxes levied by the  
 32 municipality. ~~If the municipality has an independent school system, ad valorem property~~  
 33 ~~taxes levied for educational purposes by the municipality shall be included in computing~~  
 34 ~~the tax allocation increments if the local legislative body of the municipality is empowered~~  
 35 ~~to make the determination of the municipal ad valorem tax millage rate for educational~~

1 ~~purposes. If the board of education of the independent school system is empowered to set~~  
2 ~~the ad valorem tax millage rate for educational purposes and the local legislative body of~~  
3 ~~the municipality does not have the authority to modify such rate set by the board of~~  
4 ~~education, the tax allocation increment shall not be computed on the basis of municipal~~  
5 ~~taxes for educational purposes unless the board of education of the independent school~~  
6 ~~system consents, by resolution duly adopted by said board of education, to the inclusion~~  
7 ~~of educational ad valorem property taxes as a basis for computing tax allocation~~  
8 ~~increments.~~

9 (b) County ad valorem property taxes may be included in the computation of tax allocation  
10 increments of a municipal tax allocation district if the local legislative body of the county  
11 consents to such inclusion by resolution duly adopted by said local legislative body. For  
12 those municipalities which do not have an independent school system, ad valorem property  
13 taxes levied for county school district purposes may be included in the computation of tax  
14 allocation increments of a municipal tax allocation district if the county board of education  
15 or the local legislative body of the county, whichever is authorized to establish the ad  
16 valorem tax millage rate for educational purposes, consents to such inclusion by resolution  
17 duly adopted by said board of education or local legislative body, respectively.

18 (c) When a tax allocation district is created within the area of operation of a county by the  
19 local legislative body of the county, property taxes for computing tax allocation increments  
20 shall be based on all county ad valorem property taxes levied for county governmental  
21 purposes. ~~Ad valorem property taxes levied for county school district purposes may be~~  
22 ~~included in the computation of tax allocation increments for a county tax allocation district~~  
23 ~~if the board of education of the county school district or the local legislative body of the~~  
24 ~~county, whichever is authorized to establish the ad valorem tax millage rate for educational~~  
25 ~~purposes, consents to such inclusion by resolution duly adopted by said board of education~~  
26 ~~or local legislative body, respectively.~~

27 (d) When a tax allocation district is created within the area of operation of a consolidated  
28 government by the local legislative body of the consolidated government, property taxes  
29 for computing tax allocation increments shall be based on all consolidated government ad  
30 valorem property taxes levied for consolidated government purposes. ~~Ad valorem property~~  
31 ~~taxes levied for school district purposes within the boundaries of the consolidated~~  
32 ~~government may be included in the computation of tax allocation increments for a~~  
33 ~~consolidated government tax allocation district if the board of education of such school~~  
34 ~~district or the local legislative body of the consolidated government, whichever is~~  
35 ~~authorized to establish the ad valorem tax millage rate for educational purposes within the~~  
36 ~~school district, consents to such inclusion by resolution duly adopted by said board of~~  
37 ~~education or local legislative body, respectively.~~

1 (e) The resolution of any county, municipality, or consolidated government ~~or board of~~  
 2 ~~education~~ consenting to the inclusion of ad valorem property taxes in the computation of  
 3 tax increments shall not specify the inclusion of any ad valorem property taxes not  
 4 specified in the resolution creating the tax allocation district.

5 (f) A county may pledge all or part of county general funds derived from a municipal tax  
 6 allocation district for payment or security of payment of tax allocation bonds issued by the  
 7 municipality and for payment of other redevelopment costs of the tax allocation district if  
 8 the local legislative body of the county consents to the use of such general funds by  
 9 resolution duly adopted by said local legislative body."

#### 10 **SECTION 5.**

11 Said chapter is further amended in Code Section 36-44-11, relating to allocation of positive  
 12 tax allocation increments, by revising paragraph (1) of subsection (b) as follows:

13 "(b)(1) Each county tax collector or tax commissioner, municipal official responsible for  
 14 collecting municipal ad valorem property taxes, or consolidated government official  
 15 responsible for collecting consolidated government ad valorem property taxes shall, on  
 16 the dates provided by law for the payment of taxes collected to the respective political  
 17 subdivisions, pay over to the appropriate fiscal officer of each political subdivision  
 18 having created a tax allocation district, out of taxes collected on behalf of such political  
 19 subdivision, including but not limited to taxes collected for a political subdivision ~~or~~  
 20 ~~board of education~~ consenting, pursuant to Code Section 36-44-9, to inclusion of its ad  
 21 valorem property taxes in the computation of tax allocation increments for that tax  
 22 allocation district, that portion, if any, which represents positive tax allocation increments  
 23 payable to such political subdivision."

#### 24 **SECTION 6.**

25 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 26 without such approval.

#### 27 **SECTION 7.**

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