

House Bill 63

By: Representative Ehrhart of the 36th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,
2 so as to provide for additional requirements and limitations regarding redevelopment and the
3 issuance of certain bonds and obligations; to change the qualifications of redevelopment
4 areas; to change certain provisions regarding loans for financing redevelopment costs; to
5 change certain provisions regarding contracts for exercising redevelopment powers; to
6 provide for the allocation of negative tax allocation increments; to require payment of
7 negative tax allocation increments by developers; to change certain provisions regarding
8 computation of tax allocation increments of districts and authorize expressly the use of
9 school tax funds; to place restrictions on the ability of local government authorities to issue
10 revenue bonds and other revenue obligations that are payable from payments in lieu of
11 property taxes; to provide for the applicability and nonapplicability of such restrictions; to
12 provide for powers, duties, and responsibilities of each county board of tax assessors and
13 local governments and local government authorities with respect to the foregoing; to provide
14 for related matters; to provide an effective date; to repeal conflicting laws; and for other
15 purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
19 by revising paragraph (7) of Code Section 36-44-3, relating to definitions regarding
20 redevelopment powers, as follows:

21 "(7) 'Redevelopment area' means:

22 (A) Any urbanized or developed area in which the structures, buildings, or
23 improvements, by reason of dilapidation, deterioration, age, or obsolescence,
24 inadequate provision for ventilation, light, air, sanitation, or open spaces, high density
25 of population and overcrowding, or the existence of conditions which endanger life or
26 property by fire and other causes, or any combination of such factors, is conducive to

27 ill health, transmission of disease, infant mortality, high unemployment, juvenile
28 delinquency, or crime and is detrimental to the public health, safety, morals, or welfare;
29 (B) Any urbanized or developed area which by reason of the presence of a predominant
30 number of substandard, slum, deteriorated, or deteriorating structures; the
31 predominance of defective or inadequate street layout, inadequate parking, roadways,
32 bridges, or public transportation facilities incapable of handling the volume of traffic
33 flow into or through the area, either at present or following proposed redevelopment;
34 the faulty lot layout in relation to size, adequacy, accessibility, or usefulness; unsanitary
35 or unsafe conditions; deterioration of site or other improvements; the diversity of
36 ownership, tax, or special assessment delinquency exceeding the fair value of the land;
37 diversity of ownership on defective or unusual conditions of title which prevent or
38 encumber the free alienability of land; or the existence of conditions which endanger
39 life or property by fire and other causes; or any combination of the foregoing,
40 substantially impairs or arrests the sound growth of the community, retards the
41 provision of housing accommodations or employment opportunities; or constitutes an
42 economic or social liability and is a menace to the public health, safety, morals, or
43 welfare in its present condition and use;

44 ~~(C) Any open area located within an urbanized or developed area within the corporate~~
45 ~~limits of a municipality which because of any factor or combination of factors~~
46 ~~enumerated in subparagraph (A) or (B) of this paragraph substantially impairs or arrests~~
47 ~~the sound growth of the community;~~

48 ~~(D) Any area located within an urbanized or developed area and which, immediately~~
49 ~~prior to becoming an open area, qualified as a redevelopment area under subparagraph~~
50 ~~(A) or (B) of this paragraph;~~

51 ~~(E) Any area located within an urbanized or developed area which is substantially~~
52 ~~underutilized by containing open lots or parcels of land or by containing a substantial~~
53 ~~number of buildings or structures which are 40 years old or older or by containing~~
54 ~~structures or buildings of relatively low value as compared to the value of structures or~~
55 ~~buildings in the vicinity of the area or by having development impaired by airport and~~
56 ~~related transportation noise or by related environmental factors or an area in which~~
57 ~~there is a shortage of housing that is affordable for persons of low or moderate income~~
58 ~~which the local legislative body designates as appropriate for community~~
59 ~~redevelopment or by any combination of the foregoing factors;~~

60 ~~(F) Any geographic area designated within the comprehensive plan of a political~~
61 ~~subdivision for redevelopment which has previously been developed for commercial,~~
62 ~~residential, industrial, office, or similar or ancillary uses and which lies within the~~
63 ~~service delivery area of the political subdivision, in which the current condition of the~~

64 ~~area is less desirable than the redevelopment of the area for new commercial,~~
 65 ~~residential, industrial, office, or other uses, or a combination of uses, including the~~
 66 ~~provision of open space or pedestrian and transit improvements, and any geographic~~
 67 ~~area that is adversely affected by airport or transportation related noise or other~~
 68 ~~environmental degradation, contamination, or other environmental factors which the~~
 69 ~~political subdivision has determined to be impairing or retarding the redevelopment of~~
 70 ~~the area;~~

71 ~~(G) Any urbanized or developed area or an area connecting two or more urbanized or~~
 72 ~~developed areas that has been subject to some development but which has inadequate~~
 73 ~~roadways, bridges, or public transportation or transit facilities incapable of handling the~~
 74 ~~volume of traffic or passenger flow in or through the area in a safe and efficient manner~~
 75 ~~either at present or following proposed redevelopment; or~~

76 ~~(H)(C) Any area combining any factors specified in subparagraphs (A) through (G) or~~
 77 ~~(B) of this paragraph."~~

78 SECTION 2.

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

81 "36-44-9.

82 (a) When a tax allocation district is created within the area of operation of a municipality
 83 by the local legislative body of such municipality, property taxes for computing tax
 84 allocation increments shall be based on all ad valorem property taxes levied by the
 85 municipality if the municipality consents pursuant to Article IX, Section II, Paragraph
 86 VII(b) of the Constitution. If the municipality has an independent school system, ad
 87 valorem property taxes levied for educational purposes by the municipality shall be
 88 included in computing the tax allocation increments if the local legislative body of the
 89 municipality is empowered to make the determination of the municipal ad valorem tax
 90 millage rate for educational purposes and consents to the use of school tax funds pursuant
 91 to Article IX, Section II, Paragraph VII(b) of the Constitution. If the board of education
 92 of the independent school system is empowered to set the ad valorem tax millage rate for
 93 educational purposes and the local legislative body of the municipality does not have the
 94 authority to modify such rate set by the board of education, the tax allocation increment
 95 shall not be computed on the basis of municipal taxes for educational purposes unless the
 96 board of education of the independent school system consents, by resolution duly adopted
 97 by said board of education, to the inclusion of educational ad valorem property taxes as a
 98 basis for computing tax allocation increments pursuant to Article IX, Section II, Paragraph
 99 VII(b) of the Constitution.

- 100 (b) County ad valorem property taxes may be included in the computation of tax allocation
101 increments of a municipal tax allocation district if the local legislative body of the county
102 consents to such inclusion by resolution duly adopted by said local legislative body
103 pursuant to Article IX, Section II, Paragraph VII(b) of the Constitution. For those
104 municipalities which do not have an independent school system, ad valorem property taxes
105 levied for county school district purposes may be included in the computation of tax
106 allocation increments of a municipal tax allocation district if the county board of education
107 or the local legislative body of the county, whichever is authorized to establish the ad
108 valorem tax millage rate for educational purposes, consents to such inclusion by resolution
109 duly adopted by said board of education or local legislative body, respectively, pursuant
110 to Article IX, Section II, Paragraph VII(b) of the Constitution.
- 111 (c) When a tax allocation district is created within the area of operation of a county by the
112 local legislative body of the county, property taxes for computing tax allocation increments
113 shall be based on all county ad valorem property taxes levied for county governmental
114 purposes if the county consents pursuant to Article IX, Section II, Paragraph VII(b) of the
115 Constitution. Ad valorem property taxes levied for county school district purposes may be
116 included in the computation of tax allocation increments for a county tax allocation district
117 if the board of education of the county school district or the local legislative body of the
118 county, whichever is authorized to establish the ad valorem tax millage rate for educational
119 purposes, consents to such inclusion by resolution duly adopted by said board of education
120 or local legislative body, respectively, pursuant to Article IX, Section II, Paragraph VII(b)
121 of the Constitution.
- 122 (d) When a tax allocation district is created within the area of operation of a consolidated
123 government by the local legislative body of the consolidated government, property taxes
124 for computing tax allocation increments shall be based on all consolidated government ad
125 valorem property taxes levied for consolidated government purposes if the consolidated
126 government consents pursuant to Article IX, Section II, Paragraph VII(b) of the
127 Constitution. Ad valorem property taxes levied for school district purposes within the
128 boundaries of the consolidated government may be included in the computation of tax
129 allocation increments for a consolidated government tax allocation district if the board of
130 education of such school district or the local legislative body of the consolidated
131 government, whichever is authorized to establish the ad valorem tax millage rate for
132 educational purposes within the school district, consents to such inclusion by resolution
133 duly adopted by said board of education or local legislative body, respectively, pursuant
134 to Article IX, Section II, Paragraph VII(b) of the Constitution.
- 135 (e) The resolution of any county, municipality, consolidated government or board of
136 education consenting to the inclusion of ad valorem property taxes in the computation of

137 tax increments shall not specify the inclusion of any ad valorem property taxes not
138 specified in the resolution creating the tax allocation district.

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

144 **SECTION 3.**

145 Said title is further amended by revising Code Section 36-44-11, relating to allocation of
146 positive tax allocation increments, as follows:

147 "36-44-11.

148 (a) Positive tax allocation increments of a tax allocation district shall be allocated to the
149 political subdivision which created the district for each year from the effective date of the
150 creation of the district until that time when all redevelopment costs and all tax allocation
151 bonds of the district have been paid or provided for, subject to any agreement with
152 bondholders. General funds derived from the tax allocation district which have been
153 pledged for payment or security for payment of tax allocation bonds and other
154 redevelopment costs of the tax allocation district shall also be allocated to the political
155 subdivision which created the district for each year from the effective date of the creation
156 of the district until that time when all redevelopment costs and all tax allocation bonds have
157 been paid or provided for, subject to any agreement with bondholders.

158 (b) Negative tax allocation increments of a tax allocation district shall be paid by the
159 developer and allocated to the political subdivision which created the district for each year
160 from the effective date of the creation of the district until that time when all redevelopment
161 costs and all tax allocation bonds of the district have been paid or provided for, subject to
162 any agreement with bondholders.

163 ~~(b)(1)(c)(1)~~ Each county tax collector or tax commissioner, municipal official
164 responsible for collecting municipal ad valorem property taxes, or consolidated
165 government official responsible for collecting consolidated government ad valorem
166 property taxes shall, on the dates provided by law for the payment of taxes collected to
167 the respective political subdivisions, pay over to the appropriate fiscal officer of each
168 political subdivision having created a tax allocation district, out of taxes collected on
169 behalf of such political subdivision, including but not limited to taxes collected for a
170 political subdivision or board of education consenting, pursuant to Code Section 36-44-9,
171 to inclusion of its ad valorem property taxes in the computation of tax allocation

172 increments for that tax allocation district, that portion, if any, which represents positive
173 tax allocation increments payable to such political subdivision.

174 (2) In addition, each county shall, upon receipt, pay over to the appropriate fiscal officer
175 of each municipality having created a tax allocation district that portion, if any, of its
176 general funds derived from the tax allocation district which have been pledged for
177 payment or security for payment of tax allocation bonds and for payment of other
178 redevelopment costs of the tax allocation district pursuant to Code Section 36-44-9.

179 (3) Each county tax collector or tax commissioner, municipal official responsible for
180 collecting municipal ad valorem property taxes, or consolidated government official
181 responsible for collecting consolidated government ad valorem property taxes shall, on
182 the dates provided by law for the payment of taxes collected to the respective political
183 subdivisions, pay over to the appropriate fiscal officer of each political subdivision
184 having created a tax allocation district, out of taxes collected on behalf of such political
185 subdivision, including but not limited to taxes collected for a political subdivision or
186 board of education consenting, pursuant to Code Section 36-44-9, to inclusion of its ad
187 valorem property taxes in the computation of tax allocation increments for that tax
188 allocation district, that portion, if any, which represents negative tax allocation
189 increments payable to such political subdivision.

190 ~~(e)~~(d) All positive tax allocation increments and all negative tax allocation increments
191 received for a tax allocation district shall be deposited into a special fund for the district
192 upon receipt by the fiscal officer of the political subdivision. All general funds derived
193 from the tax allocation district which have been pledged for payment or security for
194 payment of tax allocation bonds and other redevelopment costs of the tax allocation district
195 shall be deposited upon receipt into the special fund. Any lease or other contract payments
196 made under the district's redevelopment plan shall also be deposited upon receipt into the
197 special fund. Moneys derived from positive tax allocation increments, negative tax
198 allocation increments, general fund moneys, and moneys derived from lease or other
199 contract payments shall be accounted for separately within the special fund. Moneys shall
200 be paid out of the fund only to pay redevelopment costs of the district or to satisfy claims
201 of holders of tax allocation bonds issued for the district. The local legislative body shall
202 irrevocably pledge all or a part of such special fund to the payment of the tax allocation
203 bonds. The special fund or designated part thereof may thereafter be used only for the
204 payment of the tax allocation bonds and interest until they have been fully paid, and a
205 holder of said bonds shall have a lien against the special fund or said designated part
206 thereof pledged for payment of said bonds and may either at law or in equity protect and
207 enforce the lien. General funds derived from the tax allocation district may be used for
208 payment of tax allocation bonds only to the extent that positive tax allocation increments,

209 negative tax increments, and lease or other contract payments in the special fund are
 210 insufficient at any time to pay principal and interest due on such bonds. Subject to any
 211 agreement with bondholders, moneys in the fund may be temporarily invested in the same
 212 manner as other funds of the political subdivision. Except as provided in Code Section
 213 36-44-20, general funds derived from the tax allocation district may be used for payment
 214 of tax allocation bonds only to the extent that positive tax allocation increments, negative
 215 tax allocation increments, and lease or other contract payments in the special fund are
 216 insufficient at any time to pay the principal and interest due on such bonds. After all
 217 redevelopment costs and all tax allocation bonds of the district have been paid or provided
 218 for, subject to any agreement with bondholders, if there remains in the fund any moneys
 219 derived from positive tax allocation increments and negative tax allocation increments,
 220 they shall be paid over to each county, municipality, consolidated government, or county
 221 or independent board of education whose ad valorem property taxes were affected by the
 222 tax allocation district in proportion to the aggregate contribution of such taxes by such
 223 political subdivision less aggregate payments to such political subdivision pursuant to
 224 subparagraph (G) of paragraph (8) of Code Section 36-44-3 and in the same manner as the
 225 most recent distribution by the county tax collector or tax commissioner, municipal official
 226 responsible for collecting municipal ad valorem property taxes, or consolidated government
 227 official responsible for collecting consolidated government ad valorem property taxes. If
 228 there remains in the fund any other moneys, they shall be paid over to each political
 229 subdivision which contributed to the fund in proportion to the respective total contribution
 230 each made to the fund."

231 **SECTION 4.**

232 Said title is further amended by revising Code Section 36-44-16, relating to loans for
 233 financing redevelopment costs, as follows:

234 "36-44-16.

235 As an additional source for financing redevelopment costs, a political subdivision or its
 236 redevelopment agency may borrow funds from financial institutions and, in connection
 237 therewith, may pledge or assign lease contracts or revenue received from lease contracts
 238 on property owned by the political subdivision or its redevelopment agency within a
 239 redevelopment area. A political subdivision or its redevelopment agency is authorized to
 240 enter into contracts with financial institutions for the purpose of exercising the authority
 241 provided by this Code section, and such contracts may obligate the political subdivision or
 242 its redevelopment agency for any number of years not exceeding ~~25~~ ten. Contractual
 243 obligations incurred by a political subdivision pursuant to this Code section shall not
 244 constitute debt within the meaning of Article IX, Section V of the Constitution."

245 **SECTION 5.**

246 Said title is further amended by revising Code Section 36-44-19, relating to contracts for
247 exercising redevelopment powers, as follows:

248 "36-44-19.

249 A political subdivision may enter into any contract relating to the exercise of its
250 redevelopment powers under this chapter with any private persons, firms, corporations, or
251 business entities for any period not exceeding ~~30~~ ten years. Such contracts may include,
252 without being limited to, contracts to convey or otherwise obligate real property for
253 redevelopment under this chapter although that property has not yet been acquired at the
254 time of contracting by the county or municipality."

255 **SECTION 6.**

256 Said title is further amended in Chapter 80, relating to general provisions regarding counties,
257 municipalities, and other governmental entities, by adding a new Code section to read as
258 follows:

259 "36-80-16.1.

260 (a) This Code section shall be known and may be cited as the 'PILOT Restriction Act.'

261 (b) As used in this Code section, 'payments in lieu of taxes' means payments made directly
262 or indirectly:

263 (1) Primarily in consideration of the issuance of revenue bonds or other revenue
264 obligations and the application by the issuer of such bonds or other obligations of the
265 proceeds of such bonds or other obligations to finance all or a portion of the costs of
266 acquiring, constructing, equipping, or installing a capital project; and

267 (2) In further consideration of the laws of the State of Georgia granting an exemption
268 from ad valorem taxation for such capital project,

269 To or for the account of the issuer of revenue bonds or other revenue obligations or the
270 public bodies whose consent would otherwise be required, in the case of the separate
271 payments provided for under paragraph (2) of subsection (c) of this Code section.

272 Payments in lieu of taxes shall be deemed to be payments in lieu of taxes for educational
273 purposes in the same proportion that property taxes for educational purposes would bear
274 to total property taxes on such capital project if the project were subject to ad valorem
275 property taxation.

276 (c)(1) No local government authority, as defined in Code Section 36-80-16, shall be
277 authorized to issue revenue bonds or other revenue obligations to finance, in whole or in
278 part, any capital project if the terms governing such revenue bonds or other revenue

279 obligations provide for such capital project to be used primarily by a nongovernmental
280 user or users that have no taxable property interest in such capital project and provide for
281 such revenue bonds or other revenue obligations to be repaid, in whole or in part, through
282 payments in lieu of taxes made by a nongovernmental user or users, unless:

283 (A) Each of the local governments that have property tax levying authority in the area
284 in which such capital project is located consents by ordinance or resolution to the use
285 of payments in lieu of taxes for such purposes; and

286 (B) In the case of payments in lieu of taxes for educational purposes, a consent is
287 obtained that covers the use for such purposes of such payments in accordance with
288 subsection (d) of this Code section, except that the terms governing such revenue bonds
289 or other revenue obligations may provide for one or more of the public bodies, whose
290 consent would otherwise be required, instead to receive, in such capacity, separate
291 payments in lieu of taxes at least equal to the property taxes that such public body or
292 bodies would have received if the capital project were subject to ad valorem taxation
293 or in such other amount or amounts as may be agreed to by such public body or bodies.

294 (2) No such revenue bonds or other revenue obligations may be so issued without
295 compliance with the requirements of paragraph (1) of this subsection.

296 (d)(1) When a capital project is located within the boundaries of a municipality with an
297 independent school system, a consent by the municipality under subparagraph (c)(1)(B)
298 of this Code section shall cover the use of payments in lieu of taxes for educational
299 purposes, provided that, if the board of education of the independent school system is
300 empowered to set the ad valorem tax millage rate for educational purposes and the
301 legislative body of the municipality does not have the authority to modify such rate set
302 by the board of education, the requisite consent shall be that of the board of education of
303 the independent school system rather than that of the legislative body of the municipality.

304 (2) For those municipalities which do not have an independent school system, a consent
305 by the municipality under subparagraph (c)(1)(B) of this Code section shall cover the use
306 of payments in lieu of taxes for educational purposes if the county board of education or
307 the local legislative body of the county, whichever is authorized to establish the ad
308 valorem tax millage rate for educational purposes, consents to such coverage by
309 resolution duly adopted by said board of education or local legislative body, as
310 appropriate.

311 (3) The use of payments in lieu of taxes levied for county school district purposes shall
312 be covered by a consent under subparagraph (c)(1)(B) of this Code section if the board
313 of education of the county school district or the local legislative body of the county,
314 whichever is authorized to establish the ad valorem tax millage rate for educational

315 purposes, consents to such coverage by resolution duly adopted by said board of
316 education or local legislative body, as appropriate.

317 (4) The use of payments in lieu of taxes levied for school district purposes within the
318 boundaries of a consolidated government shall be covered by a consent under
319 subparagraph (c)(1)(B) of this Code section if the board of education of such school
320 district or the local legislative body of the consolidated government, whichever is
321 authorized to establish the ad valorem tax millage rate for educational purposes within
322 the school district, consents to such coverage by resolution duly adopted by said board
323 of education or local legislative body, as appropriate.

324 (e) This Code section shall not affect revenue bonds or other revenue obligations which
325 any local government authority has issued or has conditionally or unconditionally agreed
326 to issue, or which have been judicially validated, on or before the effective date of this
327 Code section. Each county board of tax assessors shall continue, notwithstanding this Code
328 section, to exercise its powers and discharge its duties. Each local government authority
329 that is authorized to issue revenue bonds or other revenue obligations secured by a taxable
330 property interest, such as a taxable lease of a capital project, shall continue,
331 notwithstanding this Code section, to exercise its powers and discharge its duties,
332 including, in the case of development authorities, the development of trade, commerce,
333 industry, and employment opportunities. Any local government or local government
334 authority which directly or indirectly receives payments in lieu of taxes shall be authorized
335 to use the same for any governmental or public purpose of such local government or local
336 government authority."

337 **SECTION 7.**

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

340 **SECTION 8.**

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