

Senate Bill 236

By: Senators Hudgens of the 47th, Shafer of the 48th, Rogers of the 21st, Jackson of the 24th, Murphy of the 27th and others

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 definitions; to provide for applicability; to provide for procedures for local
3 governments to adopt property development moratoriums; to provide for reasons and
4 findings for moratoriums; to provide for the expiration of moratoriums; to provide for permit
5 waivers under certain circumstances; to provide limitations on moratoriums; to provide for
6 related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
10 by adding a new chapter to read as follows:

11 "CHAPTER 77

12 36-77-1.

13 As used in this chapter, the term:

14 (1) 'Commercial property' means property zoned for or otherwise authorized for purposes
15 other than single-family use, multifamily use, heavy industrial use, or use as a quarry.

16 (2) 'Essential public facilities' means water or sewer facilities or street improvements
17 provided by a municipality or county.

18 (3) 'Moratorium' means a suspension of activity by a municipality, county, or other local
19 government entity by official action or otherwise.

20 (4) 'Property development' means:

21 (A) The construction, reconstruction, or other alteration or improvement of residential
22 or commercial buildings or property;

23 (B) The subdivision or replatting of residential or commercial property; or

24 (C) The rezoning of or the application to rezone property for purposes of residential
25 or commercial use.

26 (5) 'Residential property' means property zoned for or otherwise authorized for
27 single-family or multifamily use.

28 36-77-2.

29 Except as authorized by this chapter, a municipality, county, or other local government
30 entity shall not impose, adopt, or otherwise implement through official action or otherwise
31 a moratorium on property development or the approval of or application for property
32 development.

33 36-77-3.

34 A municipality or county shall not adopt a moratorium on property development unless
35 such municipality or county:

36 (1) Complies with the notice and hearing procedures prescribed by Code
37 Section 36-77-4; and

38 (2) Makes written findings as provided by Code Section 36-77-5.

39 36-77-4.

40 (a) Before a moratorium on property development may be imposed, the governing body
41 of a municipality or county shall conduct two public hearings.

42 (b) The public hearings shall provide residents and affected parties an opportunity to be
43 heard. The municipality or county shall publish notice of the time and place of the hearings
44 in a newspaper of general circulation in the municipality or county at least ten days prior
45 to the date of the first hearing.

46 (c) The two public hearings shall be separated by at least four days and shall be held
47 before the governing body of the municipality or county.

48 36-77-5.

49 (a) Moratoriums shall be prohibited for any purpose other than a demonstrated need to
50 prevent a shortage of essential public facilities. Prior to the effective date of a moratorium
51 permitted by this chapter, the governing body of a municipality or county shall issue
52 written findings based on reasonably available information.

53 (b) The written findings provided in subsection (a) of this Code section shall include a
54 summary of:

55 (1) Evidence demonstrating the extent of need beyond the estimated capacity of existing
56 essential public facilities that is expected to result from new property development,
57 including identifying:

58 (A) Any essential public facilities currently operating near, at, or beyond capacity;

- 59 (B) The portion of that capacity committed to the development subject to the
 60 moratorium; and
- 61 (C) The revenue, if any, allocated to address the essential public facilities need;
- 62 (2) Evidence demonstrating that the moratorium is reasonably limited to:
- 63 (A) Specific areas of the municipality or county where a shortage of essential public
 64 facilities would otherwise occur; and
- 65 (B) Property that has not been approved for development because of the insufficiency
 66 of existing essential public facilities;
- 67 (3) Evidence demonstrating that applying existing development ordinances or regulations
 68 and other applicable laws is inadequate to prevent the new development from causing the
 69 overcapacity of municipal infrastructure or from being detrimental to the public health,
 70 safety, and welfare in an affected geographical area;
- 71 (4) Evidence demonstrating that alternative methods of achieving the objectives of the
 72 moratorium are unsatisfactory; and
- 73 (5) Evidence demonstrating that the municipality or county has approved a working plan
 74 and time schedule for achieving the objectives of the moratorium.

75 36-77-6.

76 A moratorium, to include any extensions thereof, shall expire no later than the sixtieth day
 77 after the date the moratorium is first adopted.

78 36-77-7.

- 79 (a) A moratorium adopted under this chapter shall allow a permit applicant to apply for a
 80 waiver from the moratorium relating to the property subject to the permit.
- 81 (b) The permit applicant shall submit the reasons for the waiver request to the governing
 82 body of the municipality or county in writing. The governing body of the municipality
 83 shall vote on whether to grant the waiver request within ten days after the date of receiving
 84 such waiver request.

85 36-77-8.

- 86 (a) A moratorium adopted under this chapter shall not affect any applications relating to
 87 property development submitted prior to the date of the adoption of the moratorium.
- 88 (b) A municipality shall not adopt a moratorium under this chapter that:
- 89 (1) Prohibits a person from filing or processing an application for property development;
 90 or
- 91 (2) Prohibits or delays the processing of an application for zoning filed before the
 92 effective date of the moratorium.

93 (c) Nothing in this chapter is intended to preempt or preclude any rights or remedies
94 otherwise available under the United States Constitution, the Constitution of the State of
95 Georgia, or Georgia law."

96 **SECTION 2.**

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