

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 36 of Title 50 of the Official Code of Georgia Annotated, relating to
2 verification of lawful presence within the United States, so as to clarify that postsecondary
3 education is a state and local public benefit; to reserve postsecondary education benefits to
4 citizens and lawfully present and eligible aliens; to require verification of the eligibility for
5 such applicants for such benefits through the federal SAVE program; to provide for related
6 matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

8 Chapter 36 of Title 50 of the Official Code of Georgia Annotated, relating to verification of
9 lawful presence within the United States, is amended by revising Code Section 50-36-1,
10 relating to verification requirements, as follows:
11

12 "50-36-1.

13 (a) As used in this Code section, the term:

14 (1) 'Agency or political subdivision' means any department, agency, authority,
15 commission, or government entity of this state or any subdivision of this state.

16 (2) 'Applicant' means any natural person, 18 years of age or older, who has made
17 application for access to public benefits on behalf of an individual, business, corporation,
18 partnership, or other private entity.

19 (3)(A) 'Public benefit' means a federal benefit as defined in 8 U.S.C. Section 1611, a
20 state or local benefit as defined in 8 U.S.C. Section 1621, a benefit identified as a public
21 benefit by the Attorney General of Georgia, or a public benefit which shall include the
22 following:

23 (i) Adult education;

24 (ii) Authorization to conduct a commercial enterprise or business;

25 (iii) Business certificate, license, or registration;

26 (iv) Business loan;

- 27 (v) Cash allowance;
- 28 (vi) Disability assistance or insurance;
- 29 (vii) Down payment assistance;
- 30 (viii) Energy assistance;
- 31 (ix) Food stamps;
- 32 (x) Gaming license;
- 33 (xi) Health benefits;
- 34 (xii) Housing allowance, grant, guarantee, or loan;
- 35 (xiii) Loan guarantee;
- 36 (xiv) Medicaid;
- 37 (xv) Occupational license;
- 38 (xvi) Postsecondary education;
- 39 (xvii) Professional license;
- 40 ~~(xvii)~~(xviii) Registration of a regulated business;
- 41 ~~(xviii)~~(xix) Rent assistance or subsidy;
- 42 ~~(xix)~~(xx) State grant or loan;
- 43 ~~(xx)~~(xxi) State identification card;
- 44 ~~(xxi)~~(xxii) Tax certificate required to conduct a commercial business;
- 45 ~~(xxii)~~(xxiii) Temporary assistance for needy families (TANF);
- 46 ~~(xxiii)~~(xxiv) Unemployment insurance; and
- 47 ~~(xxiv)~~(xv) Welfare to work.

48 (B) Each year before August 1, the Attorney General shall prepare a detailed report
 49 indicating any additional 'public benefit' that may be administered in this state as
 50 defined in 8 U.S.C. Sections 1611 and 1621 and whether such benefit is subject to
 51 SAVE verification pursuant to this Code section. Such report shall provide the
 52 description of the benefit and shall be updated annually and distributed to the members
 53 of the General Assembly and be posted to the Attorney General's website.

54 (b) Except as provided in subsection (d) of this Code section or where exempted by federal
 55 law, every agency or political subdivision shall verify the lawful presence in the United
 56 States of any applicant for public benefits.

57 (c) This Code section shall be enforced without regard to race, religion, gender, ethnicity,
 58 or national origin.

59 (d) Verification of lawful presence under this Code section shall not be required:

- 60 (1) For any purpose for which lawful presence in the United States is not required by
 61 law, ordinance, or regulation;

62 (2) For assistance for health care items and services that are necessary for the treatment
 63 of an emergency medical condition, as defined in 42 U.S.C. Section 1396b(v)(3), of the
 64 alien involved and are not related to an organ transplant procedure;

65 (3) For short-term, noncash, in-kind emergency disaster relief;

66 (4) For public health assistance for immunizations with respect to immunizable diseases
 67 and for testing and treatment of symptoms of communicable diseases whether or not such
 68 symptoms are caused by a communicable disease;

69 (5) For programs, services, or assistance such as soup kitchens, crisis counseling and
 70 intervention, and short-term shelter specified by the United States Attorney General, in
 71 the United States Attorney General's sole and unreviewable discretion after consultation
 72 with appropriate federal agencies and departments, which:

73 (A) Deliver in-kind services at the community level, including through public or
 74 private nonprofit agencies;

75 (B) Do not condition the provision of assistance, the amount of assistance provided,
 76 or the cost of assistance provided on the individual recipient's income or resources; and

77 (C) Are necessary for the protection of life or safety; or

78 (6) For prenatal care; ~~or~~

79 ~~(7) For postsecondary education, whereby the Board of Regents of the University System~~
 80 ~~of Georgia or the State Board of Technical and Adult Education shall set forth, or cause~~
 81 ~~to be set forth, policies regarding postsecondary benefits that comply with all federal law~~
 82 ~~including but not limited to public benefits as described in 8 U.S.C. Section 1611, 1621,~~
 83 ~~or 1623.~~

84 (d.1) All policies of agencies or political subdivisions regarding postsecondary education
 85 benefits shall comply with federal law as described in 8 U.S.C. Section 1623.

86 (e) An agency or political subdivision providing or administering a public benefit shall
 87 require every applicant for such benefit to execute a signed and sworn affidavit verifying
 88 the applicant's lawful presence in the United States, which affidavit shall state:

89 (1) The applicant is a United States citizen or legal permanent resident 18 years of age
 90 or older; or

91 (2) The applicant is a qualified alien or nonimmigrant under the federal Immigration and
 92 Nationality Act, Title 8 U.S.C., as amended, 18 years of age or older lawfully present in
 93 the United States and provide the applicant's alien number issued by the Department of
 94 Homeland Security or other federal immigration agency.

95 If an applicant for postsecondary education benefits is under 18 years of age, the applicant
 96 shall be required to execute the signed and sworn affidavit within 30 days following such
 97 applicant's eighteenth birthday to continue the enrollment process or attendance at a
 98 postsecondary educational institution.

99 (f) For any applicant who has executed an affidavit that he or she is an alien lawfully
100 present in the United States, eligibility for public benefits shall be made through the
101 Systematic Alien Verification of Entitlement (SAVE) program operated by the United
102 States Department of Homeland Security or a successor program designated by the United
103 States Department of Homeland Security. Until such eligibility verification is made, the
104 affidavit may be presumed to be proof of lawful presence for the purposes of this Code
105 section.

106 (g) Any person who knowingly and willfully makes a false, fictitious, or fraudulent
107 statement of representation in an affidavit executed pursuant to this Code section shall be
108 guilty of a violation of Code Section 16-10-20.

109 (h) Verification of citizenship through means required by federal law shall satisfy the
110 requirements of this Code section.

111 (i) It shall be unlawful for any agency or political subdivision to provide or administer any
112 public benefit in violation of this Code section. On or before January 1 of each year, each
113 agency or political subdivision which administers any public benefit shall provide an
114 annual report to the Department of Community Affairs that identifies each public benefit,
115 as defined in subparagraph (a)(3)(A) of this Code section, administered by the agency or
116 political subdivision and a listing of each public benefit for which SAVE authorization for
117 verification has not been received.

118 (j) Any and all errors and significant delays by SAVE shall be reported to the United
119 States Department of Homeland Security.

120 (k) Notwithstanding subsection (g) of this Code section, any applicant for public benefits
121 shall not be guilty of any crime for executing an affidavit attesting to lawful presence in the
122 United States that contains a false statement if said affidavit is not required by this Code
123 section.

124 (l) In the event a legal action is filed against any agency or political subdivision alleging
125 improper denial of a public benefit arising out of an effort to comply with this Code
126 section, the Attorney General shall be served with a copy of the proceeding and shall be
127 entitled to be heard.

128 (m) Compliance with this Code section by an agency or political subdivision shall include
129 taking all reasonable, necessary steps required by a federal agency to receive authorization
130 to utilize the SAVE program or any successor program designated by the United States
131 Department of Homeland Security or other federal agency, including providing copies of
132 statutory authorization for the agency or political subdivision to provide public benefits and
133 other affidavits, letters of memorandum of understanding, or other required documents or
134 information needed to receive authority to utilize the SAVE program or any successor
135 program for each public benefit provided by such agency or political subdivision. An

136 agency or political subdivision that takes all reasonable, necessary steps and submits all
137 requested documents and information as required in this subsection but either has not been
138 given access to use such programs by such federal agencies or has not completed the
139 process of obtaining access to use such programs shall not liable for failing to use the
140 SAVE program or any such successor program to verify eligibility for public benefits.

141 (n) In the case of noncompliance with the provisions of this Code section by an agency or
142 political subdivision, the appropriations committee of each house of the General Assembly
143 may consider such noncompliance in setting the budget and appropriations.

144 (o) No employer, agency, or political subdivision shall be subject to lawsuit or liability
145 arising from any act to comply with the requirements of this chapter."

146 **SECTION 2.**

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