

House Bill 275

By: Representatives Bentley of the 139th, Marin of the 96th, Fludd of the 64th, Abrams of the 89th, Hugley of the 136th, and others

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 an applicant for
3 a public benefit or license who has clearly established his or her United States citizenship
4 need not repeatedly establish his or her citizenship for the same benefit or license; to provide
5 that an establishment of United States citizenship shall apply to subsequent renewal
6 applications for public benefits and licenses; to provide for related matters; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 50-36-1, relating to verification requirements, procedures, conditions,
11 exceptions, regulations, and criminal and other penalties for violations, is amended as
12 follows:

13 "50-36-1.

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

15 (1) 'Agency head' means a director, commissioner, chairperson, mayor, councilmember,
16 board member, sheriff, or other executive official, whether appointed or elected,
17 responsible for establishing policy for a public employer.

18 (2) 'Agency or political subdivision' means any department, agency, authority,
19 commission, or government entity of this state or any subdivision of this state.

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

23 (4)(A) 'Public benefit or license' means a federal benefit as defined in 8 U.S.C. Section
24 1611, a state or local benefit as defined in 8 U.S.C. Section 1621, a benefit identified
25 as a public benefit by the Attorney General of Georgia, ~~or a public benefit which shall~~

26 ~~include the following~~ and any one or more of the following benefits, licenses,
 27 certificates, or other government actions:

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

52 (B) Each year before August 1, the Attorney General shall prepare a detailed report
 53 ~~indicating any 'public benefit'~~ listing all public benefits and licenses that may be
 54 administered in this state as defined in 8 U.S.C. Sections 1611 and 1621 and whether
 55 such benefit is subject to SAVE verification pursuant to this Code section. Such report
 56 shall include all the benefits and licenses listed in this Code section and listed under the
 57 United States Federal Code. The report shall provide the description of the benefit and
 58 shall be updated annually and distributed to the members of the General Assembly and
 59 be posted to the Attorney General's website.

60 (b) Except as provided in ~~subsection~~ subsections (d) and (e) of this Code section or where
 61 exempted by federal law, every agency or political subdivision shall verify the lawful
 62 presence in the United States of any applicant for public benefits or licenses.

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

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

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

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

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

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

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

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

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

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

84 (6) For prenatal care; or

85 (7) For postsecondary education, whereby the Board of Regents of the University System
86 of Georgia or the State Board of the Technical College System of Georgia shall set forth,
87 or cause to be set forth, policies regarding postsecondary benefits that comply with all
88 federal law including but not limited to public benefits as described in 8 U.S.C. Section
89 1611, 1621, or 1623.

90 (e)(1) An agency or political subdivision providing or administering a public benefit or
91 license shall require every applicant for such benefit or license to:

92 (A) Provide at least one secure and verifiable document, as defined in Code Section
93 50-36-2; and

94 (B) Execute a signed and sworn affidavit verifying the applicant's lawful presence in
95 the United States and stating:

96 (i) The applicant is a United States citizen or legal permanent resident 18 years of age
97 or older; or

98 (ii) The applicant is a qualified alien or nonimmigrant under the federal Immigration
99 and Nationality Act, Title 8 U.S.C., 18 years of age or older lawfully present in the

100 United States and providing the applicant's alien number issued by the Department
101 of Homeland Security or other federal immigration agency.

102 (2) The state auditor shall create affidavits for use under this subsection and shall keep
103 a current version of such affidavits on the Department of Audits and Accounts' official
104 website.

105 (3) Documents required by this subsection may be submitted electronically, provided the
106 submission complies with Chapter 12 of Title 10.

107 (4) The requirements of this subsection shall not apply to any applicant renewing an
108 application for a public benefit or license where the applicant for that same benefit or
109 license previously complied with the requirements of this subsection by submission of
110 a secure and verifiable document establishing that such applicant is a United States
111 citizen. No person shall be required to establish citizenship on more than one occasion
112 with the same agency or political subdivision. The establishment of citizenship for an
113 initial or renewal application shall apply to all subsequent renewals of a public benefit or
114 license.

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

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

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

127 (i) It shall be unlawful for any agency or political subdivision to provide or administer any
128 public benefit in violation of this Code section. On or before January 1 of each year, each
129 agency or political subdivision which administers any public benefit or license shall
130 provide an annual report to the Department of Community Affairs that identifies each
131 public benefit; or license as defined in subparagraph (a)(3)(A) of this Code section;
132 administered by the agency or political subdivision and a listing of each public benefit or
133 license for which SAVE authorization for verification has not been received.

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

136 (k) Notwithstanding subsection (g) of this Code section, any applicant for a public benefits
137 benefit or license shall not be guilty of any crime for executing an affidavit attesting to
138 lawful presence in the United States that contains a false statement if ~~said~~ such affidavit is
139 not required by this Code section.

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

144 (m) Compliance with this Code section by an agency or political subdivision shall include
145 taking all reasonable, necessary steps required by a federal agency to receive authorization
146 to utilize the SAVE program or any successor program designated by the United States
147 Department of Homeland Security or other federal agency, including providing copies of
148 statutory authorization for the agency or political subdivision to provide public benefits and
149 other affidavits, letters of memorandum of understanding, or other required documents or
150 information needed to receive authority to utilize the SAVE program or any successor
151 program for each public benefit or license provided by such agency or political subdivision.
152 An agency or political subdivision that takes all reasonable, necessary steps and submits
153 all requested documents and information as required in this subsection but either has not
154 been given access to use such programs by such federal agencies or has not completed the
155 process of obtaining access to use such programs shall not be liable for failing to use the
156 SAVE program or any such successor program to verify eligibility for public benefits or
157 licenses.

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

161 (o) No employer, agency, or political subdivision shall be subject to lawsuit or liability
162 arising from any act to comply with the requirements of this chapter; provided, however,
163 that the intentional and knowing failure of any agency head to abide by the provisions of
164 this chapter shall:

165 (1) Be a violation of the code of ethics for government service established in Code
166 Section 45-10-1 and subject such agency head to the penalties provided for in Code
167 Section 45-10-28, including removal from office and a fine not to exceed \$10,000.00; and

168 (2) Be a high and aggravated misdemeanor offense where such agency head acts to
169 willfully violate the provisions of this Code section or acts so as to intentionally and
170 deliberately interfere with the implementation of the requirements of this Code section.

171 The Attorney General shall have the authority to conduct a criminal and civil investigation
172 of an alleged violation of this chapter by an agency or agency head and to bring a

173 prosecution or civil action against an agency or agency head for all cases of violations
174 under this chapter. In the event that an order is entered against an employer, the state shall
175 be awarded attorney's fees and expenses of litigation incurred in bringing such an action
176 and investigating such violation."

177 **SECTION 2.**

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