

House Bill 785

By: Representatives Dudgeon of the 25th, Wilkinson of the 52nd, Atwood of the 179th, Duncan of the 26th, Jones of the 167th, 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 for the creation of townships; to provide a short title; to provide for the
3 requirements for the creation of such townships; to provide for boards of township
4 supervisors for such townships; to provide for powers, duties, and functions of such township
5 supervisors; to provide for officers, meetings, elections, and filling of vacancies for such
6 township supervisors; to provide for certain immunities; to provide that property within such
7 townships shall not be subject to municipal annexation; to provide for the enactment of
8 ordinances; to prohibit certain conflicts of interest; to provide for an audit; to provide for a
9 transition of services; to provide that a county shall continue to provide services in the
10 township that are not specifically delegated by law to the township; to conform related laws;
11 to provide for related matters; to provide for an effective date and for automatic repeal under
12 certain circumstances; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 This Act shall be known and may be cited as the "Georgia Township Act."

16 **SECTION 2.**

17 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
18 by adding a new Chapter 93 to read as follows:

19 "CHAPTER 93

20 36-93-1.

21 The General Assembly shall be authorized by local law to provide for the creation of
22 townships in the unincorporated areas of any county in this state in accordance with the
23 provisions of this chapter.

24 36-93-2.

25 (a) The local Act creating a township in accordance with this chapter shall contain the
26 following:

27 (1) The name by which the township shall be known which shall be in the form of the
28 'Township of _____' and shall not use any name that is currently the name of
29 an active, incorporated municipality or county in the State of Georgia;

30 (2) A description of the area to be included in the township which shall not include any
31 area that is a part of an active, incorporated municipality in the State of Georgia and
32 which shall be composed of a single, contiguous geographical area wholly within one
33 county containing at least 2,000 acres and a minimum of 500 parcels of property that
34 qualify for homestead exemption, and in which at least 10 percent of the total
35 geographical area is used or is zoned for purposes other than residential uses;

36 (3) The number of members of the board of township supervisors of the township;

37 (4) Whether members of the board of township supervisors shall be elected at large or
38 by district and, if such members are to be elected by district, a description of the district
39 boundaries;

40 (5) The initial terms of office for members of the board of township supervisors and the
41 date for the initial election of members of the board which shall be in accordance with the
42 provisions of Code Section 21-2-540;

43 (6) Whether elections for the board of township supervisors shall be by majority or
44 plurality vote;

45 (7) The amount and nature of compensation of the members of the board of township
46 supervisors, if any; and

47 (8) The number of members of the board of township supervisors who must be present
48 to constitute a quorum for the transaction of business by the board and the number of
49 affirmative votes necessary for the board to take official action.

50 (b) Prior to introducing a bill to create a township by local Act of the General Assembly,
51 a feasibility study shall be conducted on the projected annual revenues and expenses of the
52 proposed township. Such study must demonstrate that there is a substantial likelihood that
53 the projected annual revenues of the proposed township will exceed the projected annual
54 expenses of such township. The notice of intent to introduce local legislation required by
55 Code Section 28-1-14 for such proposed township shall include a statement that a
56 feasibility study has been conducted and shall notify the citizens of the location where a
57 copy of such study is available for review.

58 (c) Any local Act creating a township shall be subject to approval in a referendum by the
59 electors of the area to be formed into a township. Such referendum shall be conducted in
60 conjunction with a presidential preference primary, a state-wide general primary, or a

61 state-wide general election, on the Tuesday following the first Monday in November in
 62 odd-numbered years, or on the third Tuesday in March in 2017. The election
 63 superintendent of the county in which the township is to be located shall call and conduct
 64 a special election for the purpose of submitting the local Act to the electors of the area to
 65 be formed into a township for approval or rejection. The election superintendent shall issue
 66 the call and conduct that election as provided by general law. The election superintendent
 67 shall cause the date and purpose of the election to be published once a week for two weeks
 68 immediately preceding the date thereof in the official organ of the county in which the
 69 proposed township would be located. The ballot shall have written or printed thereon
 70 express language concerning whether the local Act creating the township shall be
 71 approved. All persons desiring to vote for approval of the Act shall vote 'Yes,' and all
 72 persons desiring to vote for rejection of the Act shall vote 'No.' If more than one-half of
 73 the votes cast on such question are for the approval of the Act, the Act shall become of full
 74 force and effect on the first day of the second full month immediately following such
 75 election. If the Act is not approved or if the election is not conducted as provided in this
 76 Code section, the Act shall not become effective and such local Act shall be automatically
 77 repealed on the first day of January immediately following that election date. The expense
 78 of such election shall be borne by the county. It shall be the duty of the election
 79 superintendent conducting the referendum to certify the results thereof to the Secretary of
 80 State.

81 36-93-3.

82 (a) The activities of a township created pursuant to this chapter shall be governed by a
 83 board of township supervisors. Persons elected to the board shall be at least 18 years of
 84 age, residents of the township for a period of at least one year immediately prior to their
 85 election, and qualified electors of the township. No person who holds any other elective
 86 public office shall be eligible for election or to serve as a member of the board.

87 (b) A township shall not be a municipality under Georgia law nor shall it exercise any
 88 municipal powers except as expressly provided in this chapter. A township shall neither
 89 have nor exercise the power of eminent domain. A township shall not be a participant in
 90 service delivery agreements and strategies and shall not share in the distribution of local
 91 sales and use taxes authorized by Chapter 8 of Title 48.

92 (c) The board of township supervisors shall have the following authority, powers, and
 93 duties:

94 (1) To provide comprehensive township planning for development by zoning and to
 95 provide subdivision regulation and the like as the board of township supervisors deems
 96 necessary and reasonable to ensure a safe, healthy, and esthetically pleasing community

- 97 in accordance with a properly adopted zoning and land use ordinance and in accordance
98 with the provisions of Chapters 66 and 67A of this title in the same manner as counties
99 and municipalities of this state presently or hereafter exercise such power;
- 100 (2) To adopt, amend, modify, and repeal ordinances relating to the authority, powers, and
101 duties of the township under this Code section;
- 102 (3) To levy an ad valorem tax for the purpose of raising revenues to defray the limited
103 costs of discharging the obligations of the township and of providing township services,
104 for the repayment of principal and interest on general obligations, and for any other
105 public purpose within the authority, powers, and duties of the board of township
106 supervisors. Such tax shall be limited to an amount not to exceed 0.5 mill on all taxable
107 real and personal property located within the boundaries of the township that is subject
108 to such taxation by the state and county. Such tax shall be included by the tax
109 commissioner or tax collector of the county in which such property is located on county
110 tax bills for such property and shall be collected in the same manner as county taxes by
111 such county tax commissioner or tax collector, shall be deposited and maintained in a
112 separate account for such purpose including any interest received thereon, and shall be
113 promptly remitted to the township with the exception of an amount that may be withheld
114 by the county to cover the direct actual costs to the county of collecting and remitting
115 such tax for the township which shall not exceed the direct actual costs thereof;
- 116 (4) To establish a budget and make appropriations for the support of the township, to
117 authorize the expenditure of money for any purposes authorized by this chapter, and to
118 provide for the payment of expenses of the township;
- 119 (5) To provide for the appointment, qualification, and selection of officers of the board
120 of township supervisors in addition to the chairperson and vice chairperson and provide
121 for the duties of such officers;
- 122 (6) To adopt, amend, and abolish bylaws and internal operating procedures that are not
123 in conflict with the provisions of this chapter for the governance of the board in carrying
124 out its authority, powers, duties, and functions;
- 125 (7) To employ and establish the compensation of persons to provide administrative,
126 managerial, legal, accounting, financial, and other such services related to the carrying
127 out of the authority, powers, duties, and functions of the board of township supervisors
128 as the board deems appropriate;
- 129 (8) To review the performance of, promote, discipline, and terminate the employment
130 of any employee of the township;
- 131 (9) To establish and provide health insurance, retirement, and other employment benefits
132 for employees of the township;

- 133 (10) To create, alter, or abolish departments, offices, and agencies of the township and
134 to confer upon such agencies the necessary and appropriate authority for carrying out all
135 the powers conferred upon or delegated to the same;
- 136 (11) To regulate the erection and construction of buildings and all other structures not
137 inconsistent with general law; to adopt and enforce all codes as allowed by general law;
138 and to regulate all housing and building trades except as otherwise prohibited by general
139 law;
- 140 (12) To establish, amend, repeal, and collect fees for the services of the township from
141 the users of such services, including, but not expressly limited to, fees for filing rezoning
142 and land use applications and issuing building permits;
- 143 (13) To enter into contracts and agreements with other governments and entities and with
144 private persons, firms, and corporations;
- 145 (14) To accept or refuse gifts, donations, bequests, or grants from any source for any
146 purpose related to the powers and duties of the township or of its citizens on such terms
147 and conditions as the donor or grantor may impose;
- 148 (15) To appropriate and borrow money for the payment of debts of the township on such
149 terms as the board of township supervisors deems appropriate; provided, however, that
150 the township shall not have the power to issue bonds or incur bonded indebtedness;
- 151 (16) To acquire, dispose of, and hold in trust or otherwise any real, personal, or mixed
152 property, in fee simple or lesser interest, inside the property limits of the township;
- 153 (17) To provide for the preservation and protection of property and equipment of the
154 township and the administration and use of same by the public; and
- 155 (18) To provide for keeping a journal of its proceedings which shall be a public record.
- 156 (d) The board of township supervisors shall hold regular meetings at such times and places
157 as prescribed by ordinance. Special meetings of the board may be held on the call of the
158 chairperson or a majority of the members of the board. Notice of such special meeting
159 shall be served on all other members personally, or by telephone personally, at least 48
160 hours in advance of the meeting. Such notice to members of the board shall not be required
161 if all members are present when the special meeting is called. Such notice of any special
162 meeting may be waived by a member in writing before or after such a meeting, and
163 attendance at the meeting shall also constitute a waiver of notice on any business transacted
164 in such member's presence. Only the business stated in the call may be transacted at the
165 special meeting.
- 166 (e) All meetings of the board of township supervisors and all documents in the custody of
167 the township shall be public and available, respectively, to the extent required by
168 Chapter 14 of Title 50, relating to open meetings; Article 4 of Chapter 18 of Title 50,

169 relating to open records; and other applicable law, and notice to the public of special
170 meetings shall be given as required by law.

171 36-93-4.

172 A township and its board of township supervisors and employees shall be entitled to the
173 same privileges and immunities under law as a municipality and its governing authority and
174 employees.

175 36-93-5.

176 (a) For the purposes of this Code section, the term 'unincorporated island' means:

177 (1) An unincorporated area with its aggregate external boundaries abutting the annexing
178 township; or

179 (2) An unincorporated area with its aggregate external boundaries abutting any
180 combination of the annexing township and one or more municipalities or other townships
181 or the county boundary.

182 (b) Except as provided in subsection (d) of this Code section, the area within the boundary
183 of a township shall not be subject to annexation by any municipality without the approval
184 of a majority of the members of the board of township supervisors and approval by the
185 electors of the township in a referendum; provided, however, that areas within the
186 boundaries of a township that are contiguous to an existing municipality as defined in Code
187 Section 36-36-20 may be annexed by such municipality pursuant to Article 2 of Chapter 36
188 of this title, provided that such annexation will not result in the township falling below the
189 minimum standards for townships contained in paragraph (2) of subsection (a) of Code
190 Section 36-93-2.

191 (c) Upon the approval by a majority of the members of the board of township supervisors
192 and approval by the electors of the township in a referendum, a township may be converted
193 by a local Act of the General Assembly into a municipality. If the proposed municipality
194 intends to provide additional services beyond those offered by the existing township, a new
195 feasibility study may be required to demonstrate that there is a substantial likelihood that
196 the projected annual revenues of the proposed municipality will exceed the projected
197 annual expenses of such municipality. If such a feasibility is required, the notice of intent
198 to introduce local legislation required by Code Section 28-1-14 for such proposed
199 municipality shall include a statement that a feasibility study has been conducted and shall
200 notify the citizens of the location where a copy of such study is available for review.

201 (d) Provided that such areas about the limits of the township, that such deannexation will
202 not create an unincorporated island, and that such deannexation will not result in the
203 township falling below the minimum standards for townships contained in paragraph (2)

204 of subsection (a) of Code Section 36-93-2, a township may deannex an area or areas of the
 205 existing limits of the township upon the written and signed applications containing a
 206 complete description of the lands to be deannexed of all of the owners, except the owners
 207 of any public street, road, highway, or right of way, of all of the land proposed to be
 208 deannexed. Lands to be deannexed at any one time shall be treated as one body, regardless
 209 of the number of owners, and all parts shall be considered as abutting the limits of the
 210 township when any one part of the entire body abuts such limits. When such application
 211 is acted upon by the township and the land is, by ordinance, deannexed from the township,
 212 an identification of the property so deannexed shall be filed with the Department of
 213 Community Affairs and with the governing authority of the county in which the property
 214 is located in accordance with Code Section 36-36-3. When so deannexed, such lands shall
 215 cease to constitute a part of the lands within the corporate limits of the township as
 216 completely and fully as if the limits had been marked and defined by local Act of the
 217 General Assembly and shall be subject to annexation by any municipal corporation in
 218 accordance with the provisions of Chapter 36 of Title 36.

219 (e)(1) As used in this subsection, the term 'contiguous area' means any area that meets
 220 the following conditions at the time the annexation procedures are initiated:

221 (A) At least one-eighth of the aggregate external boundary or 50 feet of the area to be
 222 annexed, whichever is less, either abuts directly on the township boundary or would
 223 directly abut on the township boundary if it were not otherwise separated from the
 224 township boundary by lands owned by the township or some other political subdivision,
 225 by lands owned by this state, or by the definite width of:

226 (i) Any street or street right of way;

227 (ii) Any creek or river; or

228 (iii) Any right of way of a railroad or other public service corporation

229 which divides the township boundary and any area proposed to be annexed;

230 (B) The entire parcel or parcels of real property owned by the person seeking
 231 annexation is being annexed; provided, however, that lots shall not be subdivided in an
 232 effort to evade the requirements of this subparagraph; and

233 (C) The private property annexed, excluding any right of way of a railroad or other
 234 public service corporation, complies with the annexing township's minimum size
 235 requirements, if any, to construct a building or structure capable of being occupied by
 236 persons or property under the policies or regulations of the township's development,
 237 zoning, or subdivision ordinances.

238 (2)(A) Notwithstanding the limitations of paragraph (1) of this subsection, an area may
 239 be annexed by agreement between the township and the governing body of the county
 240 in which the territory proposed to be annexed is located.

241 (B) Notwithstanding the limitations of paragraph (1) of this subsection, the boundary
 242 line between a township and an abutting municipality may be adjusted by agreement
 243 between the township and the governing body of the municipality.

244 (3) If the entire area to be annexed is owned by the township to which the area is to be
 245 annexed at the time annexation procedures are initiated, then the term 'contiguous area'
 246 means any area which, at the time annexation procedures are initiated, abuts directly on
 247 the township boundary or which would directly abut on the township boundary if it were
 248 not otherwise separated from the township boundary by lands owned by the township or
 249 some other political subdivision, by lands owned by this state, or by the definite width
 250 or length of:

251 (A) Any street or street right of way;

252 (B) Any creek or river; or

253 (C) Any right of way of a railroad or other public service corporation

254 which divides the township boundary and any area proposed to be annexed.

255 (4) A township may annex to its existing limits unincorporated areas within the same
 256 county which are contiguous to the existing township limits at the time of such
 257 annexation upon the written and signed applications containing a complete description
 258 of the lands to be annexed of all of the owners, except the owners of any public street,
 259 road, highway, or right of way, of all of the land proposed to be annexed; provided,
 260 however, that such annexation shall not create an unincorporated island. Lands to be
 261 annexed at any one time shall be treated as one body, regardless of the number of owners,
 262 and all parts shall be considered as abutting the limits of the township when any one part
 263 of the entire body abuts such limits. When such application is acted upon by the
 264 township and the land is, by ordinance, annexed to the township, an identification of the
 265 property so annexed shall be filed with the Department of Community Affairs and with
 266 the governing authority of the county in which the property is located in accordance with
 267 Code Section 36-36-3. When so annexed, such lands shall constitute a part of the lands
 268 within the corporate limits of the township as completely and fully as if the limits had
 269 been marked and defined by local Act of the General Assembly. Except as provided in
 270 subsection (c) of Code Section 36-36-20, nothing in this article shall be construed to
 271 authorize annexation of the length of any public right of way except to the extent that
 272 such right of way adjoins private property otherwise annexed by the township.

273 36-93-6.

274 (a) At any township election, all persons who are qualified under the Constitution and laws
 275 of Georgia to vote for members of the General Assembly of Georgia and who are bona fide
 276 residents of a township shall be eligible to qualify as voters in the election.

277 (b) All elections shall be held and conducted in accordance with Chapter 2 of Title 21, the
 278 'Georgia Election Code,' and shall be conducted on a nonpartisan basis.

279 (c) Township general elections shall be held on the Tuesday after the first Monday in
 280 November in odd-numbered years.

281 (d) Members of the board of township supervisors of a township elected in a general
 282 election shall take office on the first day of January following the date of their election.

283 (e) Except for the initial terms of office in a newly created township, each member of the
 284 board of township supervisors shall serve a four-year term of office. The initial terms of
 285 members of the board for a newly created township shall be as specified in the local Act
 286 creating the township.

287 (f) A vacancy in the office of a member of the board of township supervisors shall be filled
 288 as follows:

289 (1) If there is a period of more than 27 months remaining in the member's term of office
 290 at the time of the vacancy, the vacancy shall be filled by a special election; or

291 (2) If there is a period of 27 months or less remaining in the member's term of office at
 292 the time of the vacancy, the vacancy shall be filled by appointment by the remaining
 293 members of the board of township supervisors.

294 36-93-7.

295 (a) No elected official, appointed officer, or employee of the township shall knowingly:

296 (1) Engage in any business or transaction or have a financial or other personal interest,
 297 direct or indirect, which is incompatible with the proper discharge of official duties or
 298 which would tend to impair the independence of his or her judgment or action in the
 299 performance of official duties;

300 (2) Engage in or accept private employment or render services for private interests when
 301 such employment or service is incompatible with the proper discharge of official duties
 302 or would tend to impair the independence of his or her judgment or action in the
 303 performance of official duties;

304 (3) Disclose confidential information concerning the property, government, or affairs of
 305 the township without proper legal authorization or use such information to advance the
 306 financial or other private interest of himself or herself or others;

307 (4) Accept any valuable gift, whether in the form of service, loan, object, or promise,
 308 from any person, firm, or corporation which to his or her knowledge is interested, directly
 309 or indirectly, in any manner whatsoever in business dealings with the township; provided,
 310 however, that an elected official who is a candidate for public office may accept
 311 campaign contributions and services in connection with any such campaign;

312 (5) Represent other private interests in any action or proceeding against the township or
 313 any portion of its government; or

314 (6) Vote or otherwise participate in the negotiation or in the making of any contract with
 315 any business or entity in which he or she has a financial interest.

316 (b) Any elected official, appointed officer, or employee of the township who has any
 317 private financial interest, directly or indirectly, in any contract or matter pending before or
 318 within any department of the township shall disclose such private interest to the board of
 319 township supervisors. Any member of the board who has a private interest in any matter
 320 pending before the board shall disclose such private interest and such disclosure shall be
 321 entered on the records of the board, and he or she shall disqualify himself or herself from
 322 participating in any decision or vote relating thereto. Any elected official, appointed
 323 officer, or employee of the township who shall have any private financial interest, directly
 324 or indirectly, in any contract or matter pending before or within the board shall disclose
 325 such private interest to the board.

326 (c) No elected official, appointed officer, or employee of the township shall use property
 327 owned by the township for personal benefit, convenience, or profit, except in accordance
 328 with policies promulgated by the board of township supervisors.

329 (d) Any violation of this Code section which occurs with the knowledge, express or
 330 implied, of a party to a contract or sale shall render said contract or sale voidable at the
 331 option of the board of township supervisors.

332 (e) Except as authorized by law, no member of the board of township supervisors shall
 333 hold any other elective public office or other township employment during the term for
 334 which elected.

335 36-93-8.

336 There shall be an annual independent audit of all township accounts, funds, and financial
 337 transactions by a certified public accountant selected by the board of township supervisors.
 338 The audit shall be conducted according to generally accepted government auditing
 339 standards and in accordance with the provisions of Chapter 81 of this title. Any audit of
 340 any funds by the state or federal government may be accepted as satisfying the
 341 requirements of this chapter. Copies of all audit reports shall be available at printing cost
 342 to the public.

343 36-93-9.

344 (a) Except for the purposes expressly set forth in this chapter or where jurisdiction to
 345 provide a service is identified in the applicable service delivery strategy or otherwise
 346 authorized by law, the property within the boundaries of a township shall remain subject

347 to all other provisions of law and the jurisdiction of the governing authority of the county
 348 in which it is located as if such area were a part of the unincorporated area of the county
 349 in which such property is located, and the governing authority of the county in which such
 350 property is located shall continue to provide all government services to the area
 351 encompassed by the township in the same manner and at the same level that such services
 352 would have been provided if the township had not been created, except zoning, land use
 353 planning, code enforcement, and issuing building permits to the extent that the local Act
 354 creating the township authorizes the township to provide such services.

355 (b) All property owned by the township shall be exempt from all ad valorem taxation.

356 36-93-10.

357 (a) Every proposed ordinance shall be introduced in writing and in the form required for
 358 final adoption. No ordinance shall contain a subject which is not expressed in its title. The
 359 enacting clause shall be 'The Board of Township Supervisors of the Township of
 360 _____ hereby ordains...' and every ordinance shall so begin.

361 (b) An ordinance may be introduced by any member of the board of township supervisors
 362 and be read at a regular or special meeting of the board. Ordinances shall be considered
 363 and adopted or rejected by the board in accordance with the rules which it shall establish.
 364 Upon introduction of any ordinance, the board shall, as soon as possible, distribute a copy
 365 to each member of the board and shall file a reasonable number of copies in its offices and
 366 at such other public places as the board may designate.

367 (c) No later than one calendar year after the first day of existence of a township,
 368 ordinances adopted by the township shall be codified or compiled in the manner required
 369 by Code Section 36-80-19 for counties and municipalities.

370 36-93-11.

371 (a) At the first meeting of the board of township supervisors in each calendar year, the
 372 members of the board shall select from among their number a chairperson and vice
 373 chairperson.

374 (b) The chairperson shall preside over all meetings of the board of township supervisors
 375 and shall be entitled to vote in all matters coming before the board except matters in which
 376 such chairperson has disqualified himself or herself as a result of a conflict of interest or
 377 other cause.

378 (c) The vice chairperson shall assume the duties of the chairperson in the chairperson's
 379 absence.

380 36-93-12.

381 (a) Until July 1 of the year following the election of the initial board of township
382 supervisors of a township, the existing county land use plan and zoning ordinances shall
383 remain in effect and the county in which the township is located shall continue to be
384 responsible for planning and zoning functions and the enforcement of land use provisions
385 for the property in such county in the same manner as if the township had not come into
386 existence.

387 (b) On July 1 of the year following the election of the initial board of township supervisors
388 of a township, the county in which the township is located shall no longer be responsible
389 for planning and zoning functions and the enforcement of land use provisions and shall not
390 undertake to exercise any such function over property located in the township.

391 (c) The expense of the initial election of the members of the board of township supervisors
392 shall be borne by the governing authority of the county in which the township is primarily
393 located. Within two years after the initial elections for the members of the board, the
394 township shall reimburse the county for the actual cost of printing and personnel services
395 for such election. It shall be the duty of the county election superintendent to hold and
396 conduct such election. It shall be his or her further duty to certify the result thereof to the
397 Secretary of State. Only for the purposes of holding and conducting the election of the
398 initial board, the election superintendent of the county in which the township is primarily
399 located is vested with the powers and duties of the election superintendent of the township
400 and the board regarding elections.

401 36-93-13.

402 (a) When a township receives a request for rezoning, a change in the land use plan, the
403 creation of a subdivision, or an amendment to the township's planning or development
404 regulations or ordinances or subdivision regulations, the township shall submit the request
405 or proposed amendment to the governing authority of the county in which the township is
406 located. The county governing authority shall have ten business days to respond, in
407 writing, to the township with any opinions, concerns, or potential fiscal impacts on county
408 residents that the county desires the township to consider. The county's response shall
409 include any recommended actions that the county believes might mitigate any adverse
410 consequences or impacts to the county. The township shall make any responses received
411 from a county governing authority a part of the public record and shall acknowledge receipt
412 of the response. The township shall consider the county's response and shall attempt to
413 mitigate any adverse consequences or impacts identified by the county. The township shall
414 provide the county with a copy of any final action taken by the township on the rezoning,

415 change in the land use plan, the creation of a subdivision, or amendment to the township's
416 planning or development regulations or ordinances or subdivision regulations.

417 (b) When a township proposes a new ordinance or an amendment to existing ordinances,
418 the township shall submit the proposed ordinance or amendment to the governing authority
419 of the county in which the township is located. The county governing authority shall have
420 ten business days to respond, in writing, to the township with any opinions, concerns, or
421 potential fiscal impacts on county residents that the county desires the township to
422 consider. The county's response shall include any recommended actions that the county
423 believes might mitigate any adverse consequences or impacts to the county. The township
424 shall make any responses received from a county governing authority a part of the public
425 record and shall acknowledge receipt of the response. The township shall consider the
426 county's response and shall attempt to mitigate any adverse consequences or impacts
427 identified by the county. The township shall provide the county with a copy of any final
428 action taken by the township on the ordinance or amendment.

429 (c) When a township receives a request for rezoning, a change in the land use plan, or the
430 creation of a subdivision affecting property that abuts or is contiguous to another township
431 or a municipality, the township shall submit the request, change, or proposed subdivision
432 to the board of township supervisors of the other township or the governing authority of
433 the municipality, as appropriate. The other township or municipal governing authority
434 shall have ten business days to respond, in writing, to the township with any opinions,
435 concerns, or potential fiscal impacts on the other township's or municipality's residents that
436 the other township or municipality desires the township to consider. The other township's
437 or municipality's response shall include any recommended actions that the other township
438 or municipality believes might mitigate any adverse consequences or impacts to the other
439 township or municipality. The township shall make any responses received from another
440 township or municipality a part of the public record and shall acknowledge receipt of the
441 response. The township shall consider the other township's or municipality's response and
442 shall attempt to mitigate any adverse consequences or impacts identified by the other
443 township or municipality. The township shall provide the other township or municipality,
444 as appropriate, with a copy of any final action taken by the township on the rezoning,
445 change in the land use plan, or the creation of the subdivision.

446 (d) When a township proposes a new ordinance or an amendment to existing ordinances
447 that potentially may impact another township or municipality that abuts or is contiguous
448 to the township, the township shall submit the proposed ordinance or amendment to the
449 board of township supervisors of the other township or the governing authority of the
450 municipality, as appropriate. The other township or municipality shall have ten business
451 days to respond, in writing, to the township with any opinions, concerns, or potential fiscal

452 impacts on the other township's or municipality's residents that the other township or
453 municipality desires the township to consider. The other township's or municipality's
454 response shall include any recommended actions that the other township or municipality
455 believes might mitigate any adverse consequences or impacts to the other township or
456 municipality. The township shall make any responses received from the other township
457 or municipality a part of the public record and shall acknowledge receipt of the response.
458 The township shall consider the other township's or municipality's response and shall
459 attempt to mitigate any adverse consequences or impacts identified by the other township
460 or municipality. The township shall provide the other township or municipality, as
461 appropriate, with a copy of any final action taken by the township on the ordinance or
462 amendment.

463 (e) The county in which a township is located shall coordinate service delivery of
464 county-wide services within the township. The township shall provide regular input and
465 advice to the county in which the township is located regarding county-wide services that
466 are delivered within the township. If a township deems it necessary, it may request that the
467 county consider, and the county shall consider, the establishment of a special service and
468 taxing district for higher levels of service within the township. If such districts are to be
469 created, the county shall seek the advice of the township and the township shall advise the
470 county in the establishment, implementation, and management of such districts.

471 (f) The board of township supervisors and the county governing authority of the county
472 in which the township is located shall meet jointly at least twice each year to discuss any
473 coordination needs that any of such governing bodies deem relevant to the proper and
474 efficient operations of such governments.

475 (g) When a county receives a request for rezoning, a change in the land use plan, or the
476 creation of a subdivision affecting property that abuts or is contiguous to a township, the
477 county shall submit the request, change, or proposed subdivision to the board of township
478 supervisors of the township. The township shall have ten business days to respond, in
479 writing, to the county with any opinions, concerns, or potential fiscal impacts on township
480 residents that the township desires the county to consider. The township's response shall
481 include any recommended actions that the township believes might mitigate any adverse
482 consequences or impacts to the township. The county shall make any responses received
483 from a township a part of the public record and shall acknowledge receipt of the response.
484 The county shall consider the township's response and shall attempt to mitigate any adverse
485 consequences or impacts identified by the township. The county shall provide the
486 township with a copy of any final action taken by the county on the rezoning, change in the
487 land use plan, or the creation of the subdivision.

488 (h) When a county proposes a new ordinance or an amendment to existing ordinances that
 489 potentially may impact a township, the county shall submit the proposed ordinance or
 490 amendment to the board of township supervisors of the township. The township shall have
 491 ten business days to respond, in writing, to the county with any opinions, concerns, or
 492 potential fiscal impacts on township residents that the township desires the county to
 493 consider. The township's response shall include any recommended actions that the
 494 township believes might mitigate any adverse consequences or impacts to the township.
 495 The county shall make any responses received from a township a part of the public record
 496 and shall acknowledge receipt of the response. The county shall consider the township's
 497 response and shall attempt to mitigate any adverse consequences or impacts identified by
 498 the township. The county shall provide the township with a copy of any final action taken
 499 by the county on the ordinance or amendment.

500 36-93-14.

501 Violations of township ordinances and other code violations as provided by law shall be
 502 heard in the magistrate court of the county in which the township is located, and the
 503 magistrate court shall have jurisdiction to handle such matters."

504 **SECTION 3.**

505 Said title is further amended by revising paragraph (1) of Code Section 36-66-3, relating to
 506 definitions regarding zoning procedures, as follows:

507 "(1) 'Local government' means any county, ~~or~~ municipality, or township which exercises
 508 zoning power within its territorial boundaries."

509 **SECTION 4.**

510 Said title is further amended by revising Code Section 36-66A-1, relating to definitions
 511 regarding transfer of development rights, as follows:

512 "36-66A-1.

513 As used in this chapter, the term:

514 (1) 'Development rights' means the development that would be allowed on the sending
 515 property under any comprehensive or specific plan or local zoning ordinance of a
 516 municipality, ~~or~~ county, or township in effect on the date the municipality, ~~or~~ county, or
 517 township adopts an ordinance pursuant to this chapter. Development rights may be
 518 calculated and allocated in accordance with factors including dwelling units, area, floor
 519 area, floor area ratio, height limitations, traffic generation, or any other criteria that will
 520 quantify a value for the development rights in a manner that will carry out the objectives
 521 of this Code section.

- 522 (2) 'Person' means any natural person, corporation, partnership, trust, foundation,
523 nonprofit agency, or other legal entity.
- 524 (3) 'Receiving area' means an area identified by an ordinance as an area authorized to
525 receive development rights transferred from a sending area.
- 526 (4) 'Receiving property' means a lot or parcel within which development rights are
527 increased pursuant to a transfer of development rights. Receiving property shall be
528 appropriate and suitable for development and shall be sufficient to accommodate the
529 transferable development rights of the sending property without substantial adverse
530 environmental, economic, or social impact to the receiving property or to neighboring
531 property.
- 532 (5) 'Sending area' means an area identified by an ordinance as an area from which
533 development rights are authorized to be transferred to a receiving area.
- 534 (6) 'Sending property' means a lot or parcel with special characteristics, including farm
535 land; woodland; desert land; mountain land; a flood plain; natural habitats; wetlands;
536 ground-water recharge area; marsh hammocks; recreation areas or parkland, including
537 golf course areas; or land that has unique esthetic, architectural, or historic value that a
538 municipality, ~~or county,~~ or township desires to protect from future development.
- 539 (7) 'Transfer of development rights' means the process by which development rights from
540 a sending property are affixed to one or more receiving properties.
- 541 (8) 'Transfer ratio' means the ratio of the number of development rights that may be
542 allocated to and transferred from a lot or parcel in a sending area to the number of
543 development credits that may be allocated to and used upon a lot or parcel in a receiving
544 area."

545 **SECTION 5.**

546 Said title is further amended by revising Code Section 36-66A-2, relating to procedures,
547 methods, and standards for transfer of development rights, as follows:

548 "36-66A-2.

- 549 (a) Pursuant to the provisions of this Code section, the governing body of any
550 municipality, ~~or county,~~ or township by ordinance may, in order to conserve and promote
551 the public health, safety, and general welfare, establish procedures, methods, and standards
552 for the transfer of development rights within its jurisdiction.
- 553 (b) Any proposed transfer of development rights shall be subject to the approval and
554 consent of the property owners of both the sending and receiving ~~property~~ properties.
- 555 (c) Prior to any transfer of development rights, a municipality, ~~or county,~~ or township shall
556 adopt an ordinance providing for:

- 557 (1) The issuance and recordation of the instruments necessary to sever development
558 rights from the sending property and to affix development rights to the receiving
559 property. These instruments shall be executed by the affected property owners and
560 lienholders and recorded in the county superior court clerk's office and in a separate
561 registry maintained by the municipal, ~~or county,~~ or township governing authority;
- 562 (2) The preservation of the character of the sending property and assurance that the
563 prohibitions against the use and development of the sending property shall bind the
564 landowner and every successor in interest to the landowner;
- 565 (3) The severance of transferable development rights from the sending property and the
566 delayed transfer of development rights to a receiving property, which may include the
567 transfer of development rights in accordance with any transfer ratio established by the
568 local government for sending areas, receiving areas, or both;
- 569 (4) The purchase, sale, exchange, or other conveyance of transferable development rights
570 prior to the rights being affixed to a receiving property;
- 571 (5) A system for monitoring the severance, ownership, assignment, and transfer of
572 transferable development rights;
- 573 (6) The right of a municipality, ~~or county,~~ or township to purchase development rights
574 and to hold them for conservation purposes or resale;
- 575 (7) The right of a person to purchase development rights and to hold them for
576 conservation purposes or resale;
- 577 (8) Development rights made transferable pursuant to this Code section shall be interests
578 in real property and shall be considered as such for purposes of conveyancing and
579 taxation. Once a deed of transferable development rights created pursuant to this Code
580 section has been sold, conveyed, or otherwise transferred by the owner of the parcel from
581 which the development rights were derived, the transfer of development rights shall vest
582 in the grantee and become freely alienable. For the purposes of ad valorem real property
583 taxation, the value of a transferable development right shall be deemed appurtenant to the
584 sending property until the transferable development right is registered as a distinct
585 interest in real property with the appropriate tax assessor or the transferable development
586 right is used at a receiving property and becomes appurtenant thereto;
- 587 (9) A map or other description of areas designated as sending and receiving areas for the
588 transfer of development rights between properties; and
- 589 (10) Such other provisions as the municipality, ~~or county,~~ or township deems necessary
590 to aid in the implementation of the provisions of this chapter.
- 591 (d)(1) Prior to the enactment of an ordinance as provided in subsection (c) of this Code
592 section, the local governing authority shall provide for a hearing on the proposed
593 ordinance. At least 15 but not more than 45 days prior to the date of the hearing, the local

594 governing authority shall cause to be published in a newspaper of general circulation
 595 within the territorial boundaries of the political subdivision a notice of the hearing. The
 596 notice shall state the time, place, and purpose of the hearing.

597 (2) Prior to any changes in an area designated in an ordinance as a sending or receiving
 598 area, the local governing authority shall provide for notice and a hearing as provided in
 599 paragraph (1) of this subsection.

600 (e) Proposed transfers of development rights shall become effective upon the recording of
 601 the conveyance with the appropriate deed-recording authorities and the filing of a certified
 602 copy of such recording with the local governing authority of each political subdivision in
 603 which a sending or receiving area is located in whole or in part.

604 (f) Municipalities, and counties, and townships which are jointly affected by development
 605 are authorized to enter into intergovernmental agreements for the purpose of enacting
 606 interdependent ordinances providing for the transfer of development rights between or
 607 among such jurisdictions, provided that such agreements otherwise comply with applicable
 608 laws. Any ordinances enacted pursuant to this subsection may provide for additional notice
 609 and hearing and signage requirements applicable to properties within the sending and
 610 receiving areas in each participating political subdivision."

611 **SECTION 6.**

612 Said title is further amended by revising paragraph (4) of Code Section 36-67A-1, relating
 613 to definitions relating to conflicts of interest in zoning actions, as follows:

614 "(4) 'Local government' means any county, township, or municipality of this state."

615 **SECTION 7.**

616 Said title is further amended by revising Article 1 of Chapter 70, related to planning, as
 617 follows:

618 "ARTICLE 1

619 36-70-1.

620 The local governments of the State of Georgia are of vital importance to the state and its
 621 citizens. The state has an essential public interest in promoting, developing, sustaining, and
 622 assisting local governments. In addition, the natural resources, environment, and vital
 623 areas of the state are of vital importance to the state and its citizens. The state has an
 624 essential public interest in protecting and preserving the natural resources, the environment,
 625 and the vital areas of the state. The purpose of this article is to provide for local
 626 governments to serve these essential public interests of the state by authorizing and

627 promoting the establishment, implementation, and performance of coordinated and
 628 comprehensive planning by township, municipal, ~~governments~~ and county governments,
 629 and this article shall be construed liberally to achieve that end. This article is enacted
 630 pursuant to the authority granted the General Assembly in the Constitution of the State of
 631 Georgia, including, but not limited to, the authority provided in Article III, Section VI,
 632 Paragraphs I and II(a)(1) and Article IX, Section II, Paragraphs III and IV.

633 36-70-2.

634 As used in this chapter, the term:

635 (1) 'Comprehensive plan' means any plan by a county, township, or municipality
 636 covering such county, township, or municipality proposed or prepared pursuant to the
 637 minimum standards and procedures for preparation of comprehensive plans and for
 638 implementation of comprehensive plans established by the department.

639 (2) 'Coordinated and comprehensive planning' means planning by counties, townships,
 640 and municipalities undertaken in accordance with the minimum standards and procedures
 641 for preparation of plans, for implementation of plans, and for participation in the
 642 coordinated and comprehensive planning process, as established by the department.

643 (3) 'County' means any county of this state.

644 (4) 'Department' means the Department of Community Affairs of the State of Georgia
 645 created pursuant to Article 1 of Chapter 8 of Title 50.

646 (5) 'Governing authority' or 'governing body' means the board of commissioners of a
 647 county, sole commissioner of a county, township supervisors, council, commissioners,
 648 or other governing authority for a county, township, or municipality.

649 (5.1) 'Inactive municipality' means any municipality which has not, for a period of three
 650 consecutive calendar years, carried out any of the following activities:

651 (A) The levying or collecting of any taxes or fees;

652 (B) The provision of any of the following governmental services: water; sewage;
 653 garbage collection; police protection; fire protection; or library; or

654 (C) The holding of a municipal election.

655 (5.2) 'Local government' means any county as defined in paragraph (3) of this Code
 656 section, any township as defined in paragraph (10) of this Code section, or any
 657 municipality as defined in paragraph (7) of this Code section. The term does not include
 658 any school district of this state nor any sheriff, clerk of the superior court, judge of the
 659 probate court, or tax commissioner or the office, personnel, or services provided by such
 660 elected officials.

661 (5.3) 'Mechanisms' includes, but is not limited to, intergovernmental agreements,
 662 ordinances, resolutions, and local Acts of the General Assembly in effect on July 1, 1997,
 663 or executed thereafter.

664 (6) 'Minimum standards and procedures' means the minimum standards and procedures
 665 for preparation of comprehensive plans, for implementation of comprehensive plans, and
 666 for participation in the coordinated and comprehensive planning process, as established
 667 by the department, in accordance with Article 1 of Chapter 8 of Title 50. Minimum
 668 standards and procedures shall include any standards and procedures for such purposes
 669 prescribed by a regional commission for counties, townships, and municipalities within
 670 its region and approved in advance by the department.

671 (7) 'Municipality' means any municipal corporation of the state and any consolidated
 672 city-county government of the state.

673 (8) 'Region' means the territorial area within the boundaries of operation for any regional
 674 commission, as such boundaries shall be established from time to time by the board of
 675 the department.

676 (9) 'Regional commission' means a regional commission established under Article 2 of
 677 Chapter 8 of Title 50.

678 (10) 'Township' means a township created pursuant to Chapter 93 of this title.

679 36-70-3.

680 The governing bodies of municipalities, townships, and counties are authorized:

681 (1) To develop, or to cause to be developed pursuant to a contract or other arrangement
 682 approved by the governing body, a comprehensive plan;

683 (2) To develop, establish, and implement land use regulations which are consistent with
 684 the comprehensive plan of the municipality, township, or county, as the case may be;

685 (3) To develop, establish, and implement a plan for capital improvements which
 686 conforms to minimum standards and procedures and to make any capital improvements
 687 plan a part of the comprehensive plan of the municipality, township, or county, as the
 688 case may be;

689 (4) To employ personnel, or to enter into contracts with a regional commission or other
 690 public or private entity, to assist the municipality, township, or county in developing,
 691 establishing, and implementing its comprehensive plan;

692 (5) To contract with one or more counties, townships, or municipalities, or ~~both~~ or any
 693 combination thereof, for assistance in developing, establishing, and implementing a
 694 comprehensive plan, regardless of whether the contract is to obtain such assistance or to
 695 provide such assistance; and

696 (6) To take all action necessary or desirable to further the policy of the state for
 697 coordinated and comprehensive planning, without regard for whether any such action is
 698 specifically mentioned in this article or is otherwise specifically granted by law.

699 36-70-4.

700 (a) Each municipality, township, and county shall automatically be a member of the
 701 regional commission for the region which includes such municipality, township, or county,
 702 as the case may be.

703 (b) Each municipality, township, and county shall pay, when and as they become due, the
 704 annual dues required for membership in its regional commission.

705 (c) Each municipality, township, and county shall participate in compiling a Georgia data
 706 base and network, coordinated by the department, to serve as a comprehensive source of
 707 information available, in an accessible form, to local governments and state agencies.

708 36-70-5.

709 (a) Except as provided in subsection (b) of this Code section, nothing in this article shall
 710 limit or compromise the right of the governing body of any county, township, or
 711 municipality to exercise the power of zoning.

712 (b) Any municipality which is as of April 17, 1992, an inactive municipality shall not on
 713 or after April 17, 1992, exercise any powers under this article or exercise any zoning
 714 powers, until and unless the municipality is restored to active status by the enactment of
 715 an appropriate new or amended charter by local Act of the General Assembly. Any
 716 municipality which becomes an inactive municipality after April 17, 1992, shall not after
 717 becoming inactive exercise powers under this article or exercise any zoning powers, until
 718 and unless the municipality is restored to active status by the enactment of an appropriate
 719 new or amended charter by local Act of the General Assembly.

720 (c) Any county which has located within its boundaries all or any part of any inactive
 721 municipality shall have full authority to exercise through its governing body all planning
 722 and zoning powers within the area of such inactive municipality within the county, in the
 723 same manner as if such area were an unincorporated area."

724 **SECTION 8.**

725 This Act shall become effective on January 1, 2017, provided that an amendment to the state
 726 Constitution is passed by the General Assembly and ratified by the voters at the 2016
 727 November general election providing for the creation of townships and the exercise of zoning
 728 powers by such townships. If such an amendment is not passed and ratified, then this Act
 729 shall stand repealed by operation of law on January 1, 2017.

730

SECTION 9.

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