

Senate Bill 272

By: Senators Ligon, Jr. of the 3rd, Millar of the 40th, Williams of the 27th, Hill of the 32nd, Williams of the 19th 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 a short title; to provide for the requirements for the creation and funding
3 of such townships; to provide for township councils for such townships; to provide for
4 officers, meetings, elections, and filling of vacancies for such councils; to provide for
5 powers, duties, and functions of such councils; to provide for certain immunities; to prohibit
6 certain conflicts of interest; to provide for an audit; to provide for a transition of services; to
7 provide that counties and municipalities shall continue to provide services in the township
8 that are not specifically delegated by law to the township; to provide for the enactment of
9 ordinances; to provide for the amendment and alteration of township boundaries; to revise
10 other provisions of the Official Code of Georgia Annotated so as to provide for conformity;
11 to provide for related matters; to provide for a contingent effective date; to repeal conflicting
12 laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 SECTION 1.

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

17 CHAPTER 93

18 36-93-1.

19 (a) This chapter shall be known and may be cited as the 'Georgia Townships Act.'

20 (b) The General Assembly shall be authorized by local law to provide for the creation of
21 townships in the unincorporated areas of counties in this state in accordance with the
22 provisions of this chapter.

23 (c) Prior to introducing a bill to create a township by local Act of the General Assembly,
24 a feasibility study shall be conducted on the projected annual revenues and expenses of the
25 proposed township. Such study must demonstrate that there is a substantial likelihood that

26 the projected annual revenues of the proposed township will exceed the projected annual
 27 expenses of such township. The notice of intent to introduce local legislation required by
 28 Code Section 28-1-14 for such proposed township shall include a statement that a
 29 feasibility study has been conducted and shall notify the citizens of the location where a
 30 copy of such study is available for review.

31 (d) The General Assembly shall not create authorities in connection with townships nor
 32 shall any authority be created by a township.

33 36-93-2.

34 (a) A local Act creating a township shall contain the following:

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

38 (2) A description of the area to be included in the township which shall be composed of
 39 a single, contiguous geographical area wholly within one county containing at least 2,000
 40 acres and a minimum of 500 parcels of property that qualify for homestead exemption,
 41 and in which at least 10 percent of the total geographical area is used or is zoned for
 42 purposes other than residential uses; provided, however, that no township shall include
 43 within its boundaries more than one-third of the then-existing unincorporated land area
 44 of the county within which it is located unless one-fifth or less of the then-existing land
 45 area of the county remains unincorporated, in which case a township established pursuant
 46 to this chapter may include the entire remaining unincorporated area of the county;

47 (3) The number of members of the township council of the township;

48 (4) Whether members of the township council shall be elected at large or by district and,
 49 if such members are to be elected by district, a description of the district boundaries;

50 (5) The initial terms of office for members of the township council and the date for the
 51 initial election of members of the council in accordance with the provisions of Code
 52 Section 21-2-540;

53 (6) Whether elections for the township council shall be by majority or plurality vote;

54 (7) The manner of filling vacancies on the township council;

55 (8) The amount and nature of compensation, if any, of the members of the township
 56 council; and

57 (9) The number of members of the township council who must be present to constitute
 58 a quorum for the transaction of business by the council and the number of affirmative
 59 votes necessary for the council to take official action.

60 (b) Any local Act creating a township shall be subject to approval by the electors of the
 61 area to be incorporated into a township in a referendum. Such referendum shall be

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

83 36-93-3.

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

89 (b) A township shall exercise only those powers expressly provided in this chapter. A
90 township shall neither have nor exercise the power of eminent domain. A township shall
91 not be a participant in service delivery agreements and shall not share in the distribution
92 of local sales and use taxes authorized by Chapter 8 of Title 48.

93 (c) The township council may have some or all of the following authority, powers, and
94 duties related to exercising or necessary to exercising the power of zoning and the
95 regulation of land use and development within the boundaries of the township, which
96 authority, powers, and duties shall be specified in the local Act creating the township:

- 97 (1) To provide comprehensive township planning for development by zoning and to
98 provide subdivision regulation and the like as the township council deems necessary and
99 reasonable to ensure a safe, healthy, and esthetically pleasing community in accordance
100 with a properly adopted zoning and land use ordinance and in accordance with the
101 provisions of Chapters 66 and 67A of this title in the same manner as counties and
102 municipalities of this state presently or hereafter exercise such power;
- 103 (2) To adopt, amend, modify, and repeal ordinances relating to the authority, powers, and
104 duties of the township as provided in this chapter;
- 105 (3) To establish a budget and make appropriations for the support of the township, to
106 authorize the expenditure of money for any purposes authorized by this chapter, and to
107 provide for the payment of expenses of the township;
- 108 (4) To provide for the appointment, qualification, and selection of officers of the
109 township council in addition to the chairperson and vice chairperson and provide for the
110 duties of such officers;
- 111 (5) To adopt, amend, and abolish bylaws and internal operating procedures that are not
112 in conflict with the provisions of this chapter for the governance of the township council
113 in carrying out its authority, powers, duties, and functions;
- 114 (6) To employ and establish the compensation of persons to provide administrative,
115 managerial, legal, accounting, financial, and other such services related to the carrying
116 out of the authority, powers, duties, and functions of the township council as the council
117 deems appropriate;
- 118 (7) To review the performance of, promote, discipline, and terminate the employment
119 of any employee of the township;
- 120 (8) To establish and provide health insurance, retirement, and other employment benefits
121 for employees of the township;
- 122 (9) To create, alter, or abolish departments, offices, and agencies of the township and to
123 confer upon such agencies the necessary and appropriate authority for carrying out all the
124 powers conferred upon or delegated to the same;
- 125 (10) To regulate the erection and construction of buildings and all other structures not
126 inconsistent with general law; to adopt and enforce building, housing, plumbing,
127 electrical, gas, and heating and air-conditioning codes and such other codes as allowed
128 by general law; and to regulate all housing and building trades except as otherwise
129 prohibited by general law;
- 130 (11) To establish, amend, repeal, and collect fees for the services of the township from
131 the users of such services, including, but not expressly limited to, fees for filing rezoning
132 and land use applications, issuing building permits, and other licenses;

- 133 (12) To enter into contracts and agreements with other governments and entities and with
 134 private persons, firms, and corporations, including contracts for the privatization of its
 135 services and functions, contracts for security services, and contracts for the creation,
 136 maintenance, and updating of the Internet website required by Code Section 36-93-12;
 137 (13) To accept or refuse gifts, donations, bequests, or grants from any source for any
 138 purpose related to the powers and duties of the township or of its citizens on such terms
 139 and conditions as the donor or grantor may impose;
 140 (14) To appropriate and borrow money for the payment of debts of the township on such
 141 terms as the township council deems appropriate; provided, however, that the township
 142 shall not have the power to issue bonds or incur bonded indebtedness;
 143 (15) To acquire, dispose of, and hold in trust or otherwise any real, personal, or mixed
 144 property, in fee simple or lesser interest, inside the limits of the township;
 145 (16) To provide for the preservation and protection of property and equipment of the
 146 township and the administration and use of same by the public;
 147 (17) To purchase policies of workers' compensation and liability insurance in such
 148 amounts and under such terms as the township council deems appropriate; and
 149 (18) To provide for keeping a journal of its proceedings which shall be a public record.
 150 (d) The township council shall hold regular meetings at such times and places as
 151 prescribed by ordinance. Special meetings of the council may be held on the call of the
 152 chairperson or a majority of the members of the council. Notice of such special meeting
 153 shall be served on all other members personally, or by telephone personally, at least 48
 154 hours in advance of the meeting. Such notice to members of the council shall not be
 155 required if all members are present when the special meeting is called. Such notice of any
 156 special meeting may be waived by a member in writing before or after such a meeting, and
 157 attendance at the meeting shall also constitute a waiver of notice on any business transacted
 158 in such member's presence. Only the business stated in the call may be transacted at the
 159 special meeting.
 160 (e) Townships shall be subject to the provisions of Chapter 14 of Title 50, relating to open
 161 meetings, and Article 4 of Chapter 18 of Title 50, relating to open records. All meetings
 162 of the township council and all documents in the custody of the township shall be public
 163 and available, respectively, to the extent required by Chapter 14 of Title 50, Article 4 of
 164 Chapter 18 of Title 50, and other applicable law, and notice to the public of special
 165 meetings shall be given as required by law.
 166 36-93-4.
 167 A township and its township council and employees shall be entitled to the same privileges
 168 and immunities under law as municipalities and their governing authorities and employees.

169 36-93-5.

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

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

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

177 (d) Members of the township council of a township elected in a general election shall take
 178 office on the first day of January following the date of their election.

179 (e) Except for the initial terms of office in a newly created township, each member of the
 180 township council shall serve a four-year term of office. The initial terms of members of
 181 the council for a newly created township shall be as specified in the local Act creating the
 182 township.

183 36-93-6.

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

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

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

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

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

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

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

205 (b) Any elected official, appointed officer, or employee of the township who has any
 206 private financial interest, directly or indirectly, in any contract or matter pending before or
 207 within any department of the township shall disclose such private interest to the township
 208 council. Any member of the council who has a private interest in any matter pending
 209 before the council shall disclose such private interest and such disclosure shall be entered
 210 on the records of the council, and he or she shall disqualify himself or herself from
 211 participating in any decision or vote relating thereto. Any elected official, appointed
 212 officer, or employee of the township who shall have any private financial interest, directly
 213 or indirectly, in any contract or matter pending before or within the council shall disclose
 214 such private interest to the council.

215 (c) No elected official, appointed officer, or employee of the township shall use property
 216 owned by the township for personal benefit, convenience, or profit, except in accordance
 217 with policies promulgated by the township council.

218 (d) Any violation of this Code section which occurs with the knowledge, express or
 219 implied, of a party to a contract or sale shall render said contract or sale voidable at the
 220 option of the township council.

221 (e) Except as authorized by law and specifically including subsection (a) of Code
 222 Section 36-93-3, no member of the township council shall hold any other elective public
 223 office or other township employment during the term for which elected.

224 36-93-7.

225 There shall be an annual independent audit of all township accounts, funds, and financial
 226 transactions by a certified public accountant selected by the township council. The audit
 227 shall be conducted according to generally accepted government auditing standards and in
 228 accordance with the provisions of Chapter 81 of this title. Copies of all audit reports shall
 229 be available at printing cost to the public. A copy of each audit report shall be transmitted
 230 to the commissioner of community affairs within 30 days following the completion of such
 231 report.

232 36-93-8.

233 Except for the purposes expressly set forth in this chapter or where jurisdiction to provide
 234 a service is identified in the applicable service delivery strategy or otherwise authorized by
 235 law, the property within the boundaries of a township shall remain subject to all other
 236 provisions of law and the jurisdiction of the governing authority of the county in which it
 237 is located as if such area were a part of the unincorporated area of the county in which such
 238 property is located, and the governing authority of the county in which such property is
 239 located shall continue to provide government services to the area encompassed by the

240 township in the same manner and at the same level that such services would have been
 241 provided if the township had not been created, with the exception of zoning, land use
 242 planning, code enforcement, and issuing building permits to the extent that the local Act
 243 creating the township authorizes the township to provide such services.

244 36-93-9.

245 (a) Every proposed ordinance shall be introduced in writing and in the form required for
 246 final adoption. No ordinance shall contain a subject which is not expressed in its title. The
 247 enacting clause shall be 'The Township Council of the Township of
 248 _____ hereby ordains...' and every ordinance shall so begin.

249 (b) An ordinance may be introduced by any member of the township council and be read
 250 at a regular or special meeting of the council. Ordinances shall be considered and adopted
 251 or rejected by the council in accordance with the rules which it shall establish. Upon
 252 introduction of any ordinance, the council shall, as soon as possible, distribute a copy to
 253 each member of the council and shall file a reasonable number of copies in its offices and
 254 at such other public places as the council may designate.

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

258 36-93-10.

259 (a) At the first meeting of the township council in each calendar year, the members of the
 260 council shall select from among their number a chairperson and vice chairperson.

261 (b) The chairperson shall preside over all meetings of the township council and shall be
 262 entitled to vote in all matters coming before the council except matters in which such
 263 chairperson has disqualified himself or herself as a result of a conflict of interest or other
 264 cause.

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

267 36-93-11.

268 (a) Upon the certification of the vote approving the creation of a township pursuant to
 269 subsection (b) of Code Section 36-93-2, no rezonings or changes in the land use plan for
 270 the properties contained in the township shall be permitted until such time as the township
 271 council adopts a comprehensive land use plan and zoning ordinance. The land use plan and
 272 zoning of the county in which the township is located that is in existence at the time of the

273 creation of the township shall remain in effect until the council adopts a comprehensive
 274 land use plan and zoning ordinance for the township.

275 (b) A township shall carry liability insurance in such an amount that, in the opinion of the
 276 township council, will cover all reasonably anticipated risks of the township.

277 (c) Within two years after the initial elections for the members of the township council,
 278 the township shall reimburse the county for the actual cost of printing and personnel
 279 services for the initial referendum and initial election of the members of the council. It
 280 shall be the duty of the county election superintendent to hold and conduct such elections.
 281 It shall be his or her further duty to certify the results thereof to the Secretary of State.
 282 Only for the purposes of holding and conducting the election of the initial council, the
 283 election superintendent of the county in which the township is located is vested with the
 284 powers and duties of the election superintendent of the township and the council regarding
 285 elections.

286 36-93-12.

287 (a) A township shall maintain its documents and records, including those items specified
 288 in subsection (b) of this Code section, in accordance with the provisions of Article 5 of
 289 Chapter 18 of Title 50, the 'Georgia Records Act.'

290 (b) A township shall post in the legal organ of the county in which it is located, minutes
 291 of meetings of the township council or any committees thereof, current and proposed
 292 budgets of the township, audits of the township, and any other documents mandated by this
 293 chapter. A township may maintain an Internet website on which it may post agendas for
 294 meetings of the council and any committees thereof and the minutes of meetings of the
 295 council or any committees thereof, current and proposed budgets of the township, audits
 296 of the township, and any other documents mandated by this chapter. Documents posted
 297 on the website shall remain accessible by the public for not less than one year following
 298 their posting.

299 (c) Townships shall publish financial statements in accordance with Code Section 36-1-6
 300 and shall be subject to Code Section 36-80-21.

301 36-93-13.

302 Violations of township ordinances and other code violations as provided by law shall be
 303 heard in the magistrate court of the county in which the township is located, and the
 304 magistrate court shall have jurisdiction to handle such matters. In addition, a township
 305 council may establish by ordinance a civil code enforcement board as authorized by
 306 Chapter 74 of this title to hear such violations.

307 36-93-14.

308 (a) The local Act creating the township may authorize the imposition and levy of an ad
309 valorem tax for the purpose of raising revenues to defray the limited costs of discharging
310 the obligations of the township and of providing township services, for the repayment of
311 principal and interest on general obligations, and for any other public purpose within the
312 authority, powers, and duties of the township council. Such tax shall be limited to an
313 amount not to exceed 0.5 mill on all taxable real and personal property located within the
314 boundaries of the township that is subject to such taxation by the state and county.

315 (b) Such tax shall be included by the tax commissioner or tax collector of the county in
316 which such property is located on county tax bills for such property and shall be collected
317 in the same manner as county taxes by such county tax commissioner or tax collector, shall
318 be deposited and maintained in a separate account for such purpose including any interest
319 received thereon, and shall be promptly remitted to the township with the exception of an
320 amount that may be withheld by the county to cover the direct actual costs to the county
321 of collecting and remitting such tax for the township which shall not exceed the direct
322 actual costs thereof.

323 (c) All county homestead exemptions in effect shall apply to township ad valorem taxes.
324 In addition, the General Assembly by local Act consistent with Article VII, Section II,
325 Paragraph II of the Constitution may provide for additional homestead exemptions from
326 township ad valorem taxes.

327 (d) All property owned by the township or by the county in which the township is located
328 shall be exempt from all ad valorem taxation.

329 (e)(1) In addition to any ad valorem tax authorized under subsection (a) of this Code
330 section, a township shall be authorized to impose franchise fees on cable service
331 providers or video service providers in the same manner as municipalities under
332 Chapter 76 of this title.

333 (2)(A) A township shall also be authorized to grant franchises to or make contracts
334 with electric light or power companies for the use and occupancy of the streets of the
335 township, for the purpose of rendering utility services, upon such conditions and for
336 such time as the town council may deem wise and subject to the Constitution and the
337 general laws of this state.

338 (B) The amount of fees collected from customers of electric light or power companies
339 as a result of franchise agreements or contracts authorized by this paragraph shall be
340 itemized on bills or invoices transmitted to customers for such services. The
341 requirements of this subparagraph shall not apply to fees that are included in the
342 system-wide charges or base rates of an electric light or power company subject to a
343 franchise agreement or contract.

344 36-93-15.

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

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

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

351 (b) The boundaries of a township shall not be altered or amended except by local Act of
 352 the General Assembly or in accordance with the procedures contained in this Code section.

353 (c) Except as provided in subsection (d) of this Code section, the area within the boundary
 354 of a township shall not be subject to annexation by any municipality without the approval
 355 of a majority of the members of the township council and approval by the electors of the
 356 township in a referendum; provided, however, that areas within the boundaries of a
 357 township that are contiguous to an existing municipality as defined in Code
 358 Section 36-36-20 may be annexed by such municipality pursuant to Article 2 of Chapter 36
 359 of this title.

360 (d) Provided that such areas abut the limits of the township, that such deannexation will
 361 not create unincorporated islands, and that such deannexation will not result in the
 362 township falling below the minimum standards for townships contained in paragraph (2)
 363 of subsection (a) of Code Section 36-93-2, a township may deannex an area or areas of the
 364 existing limits of the township upon the written and signed applications containing a
 365 complete description of the lands to be deannexed of all of the owners, except the owners
 366 of any public street, road, highway, or right of way, of all of the land proposed to be
 367 deannexed. Lands to be deannexed at any one time shall be treated as one body, regardless
 368 of the number of owners, and all parts shall be considered as abutting the limits of the
 369 township when any one part of the entire body abuts such limits. When such application
 370 is acted upon by the township and the land is, by ordinance, deannexed from the township,
 371 an identification of the property so deannexed shall be filed with the Department of
 372 Community Affairs and with the governing authority of the county in which the property
 373 is located in accordance with Code Section 36-36-3. When so deannexed, such lands shall
 374 cease to constitute a part of the lands within the corporate limits of the township as
 375 completely and fully as if the limits had been marked and defined by local Act of the
 376 General Assembly and shall be subject to annexation by any municipal corporation in
 377 accordance with the provisions of Chapter 36 of this title.

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

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

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

386 (ii) Any creek or river; or

387 (iii) Any right of way of a railroad or other public service corporation which divides
 388 the township boundary and any area proposed to be annexed;

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

392 (C) The private property annexed, excluding any right of way of a railroad or other
 393 public service corporation, complies with the annexing township's minimum size
 394 requirements, if any, to construct a building or structure occupiable by persons or
 395 property under the policies or regulations of the township's development, zoning, or
 396 subdivision ordinances.

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

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

403 (3) A township may annex to its existing limits unincorporated areas within the same
 404 county and which are contiguous to the existing township limits at the time of such
 405 annexation upon the written and signed applications containing a complete description
 406 of the lands to be annexed of all of the owners, except the owners of any public street,
 407 road, highway, or right of way, of all of the land proposed to be annexed; provided,
 408 however, that such annexation shall not create an unincorporated island. Lands to be
 409 annexed at any one time shall be treated as one body, regardless of the number of owners,
 410 and all parts shall be considered as abutting the limits of the township when any one part
 411 of the entire body abuts such limits. When such application is acted upon by the
 412 township and the land is, by ordinance, annexed to the township, an identification of the
 413 property so annexed shall be filed with the Department of Community Affairs and with
 414 the governing authority of the county in which the property is located in accordance with
 415 Code Section 36-36-3. When so annexed, such lands shall constitute a part of the lands
 416 within the corporate limits of the township as completely and fully as if the limits had

417 been marked and defined by local Act of the General Assembly. Except as provided in
 418 subsection (c) of Code Section 36-36-20, nothing in this article shall be construed to
 419 authorize annexation of the length of any public right of way except to the extent that
 420 such right of way adjoins private property otherwise annexed by the township."

421 **SECTION 2.**

422 Said title is further amended by revising paragraphs (1) and (4) of Code Section 36-66-3,
 423 relating to definitions regarding zoning procedures, as follows:

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

426 "(4) 'Zoning decision' means final legislative action by a local government which results
 427 in:

428 (A) The adoption of a zoning ordinance;

429 (B) The adoption of an amendment to a zoning ordinance which changes the text of the
 430 zoning ordinance;

431 (C) The adoption of an amendment to a zoning ordinance which rezones property from
 432 one zoning classification to another;

433 (D) The adoption of an amendment to a zoning ordinance by a municipal local
 434 government which zones property to be annexed into the municipality; ~~or~~

435 (E) The grant of a permit relating to a special use of property; or

436 (F) With regard to townships, a decision pursuant to subparagraph (A), (B), (C), or (E)
 437 of this paragraph."

438 **SECTION 3.**

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

441 "36-66A-1.

442 As used in this chapter, the term:

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

- 451 (2) 'Person' means any natural person, corporation, partnership, trust, foundation,
 452 nonprofit agency, or other legal entity.
- 453 (3) 'Receiving area' means an area identified by an ordinance as an area authorized to
 454 receive development rights transferred from a sending area.
- 455 (4) 'Receiving property' means a lot or parcel within which development rights are
 456 increased pursuant to a transfer of development rights. Receiving property shall be
 457 appropriate and suitable for development and shall be sufficient to accommodate the
 458 transferable development rights of the sending property without substantial adverse
 459 environmental, economic, or social impact to the receiving property or to neighboring
 460 property.
- 461 (5) 'Sending area' means an area identified by an ordinance as an area from which
 462 development rights are authorized to be transferred to a receiving area.
- 463 (6) 'Sending property' means a lot or parcel with special characteristics, including farm
 464 land; woodland; desert land; mountain land; a flood plain; natural habitats; wetlands;
 465 ground-water recharge area; marsh hammocks; recreation areas or parkland, including
 466 golf course areas; or land that has unique esthetic, architectural, or historic value that a
 467 municipality, township, or county desires to protect from future development.
- 468 (7) 'Transfer of development rights' means the process by which development rights from
 469 a sending property are affixed to one or more receiving properties.
- 470 (8) 'Transfer ratio' means the ratio of the number of development rights that may be
 471 allocated to and transferred from a lot or parcel in a sending area to the number of
 472 development credits that may be allocated to and used upon a lot or parcel in a receiving
 473 area."

474 **SECTION 4.**

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

477 "36-66A-2.

- 478 (a) Pursuant to the provisions of this Code section, the governing body of any
 479 municipality, township, or county by ordinance may, in order to conserve and promote the
 480 public health, safety, and general welfare, establish procedures, methods, and standards for
 481 the transfer of development rights within its jurisdiction.
- 482 (b) Any proposed transfer of development rights shall be subject to the approval and
 483 consent of the property owners of both the sending and receiving property properties.
- 484 (c) Prior to any transfer of development rights, a municipality, township, or county shall
 485 adopt an ordinance providing for:

- 486 (1) The issuance and recordation of the instruments necessary to sever development
487 rights from the sending property and to affix development rights to the receiving
488 property. These instruments shall be executed by the affected property owners and
489 lienholders and recorded in the county superior court clerk's office and in a separate
490 registry maintained by the municipal, township, or county governing authority;
- 491 (2) The preservation of the character of the sending property and assurance that the
492 prohibitions against the use and development of the sending property shall bind the
493 landowner and every successor in interest to the landowner;
- 494 (3) The severance of transferable development rights from the sending property and the
495 delayed transfer of development rights to a receiving property, which may include the
496 transfer of development rights in accordance with any transfer ratio established by the
497 local government for sending areas, receiving areas, or both;
- 498 (4) The purchase, sale, exchange, or other conveyance of transferable development rights
499 prior to the rights being affixed to a receiving property;
- 500 (5) A system for monitoring the severance, ownership, assignment, and transfer of
501 transferable development rights;
- 502 (6) The right of a municipality, township, or county to purchase development rights and
503 to hold them for conservation purposes or resale;
- 504 (7) The right of a person to purchase development rights and to hold them for
505 conservation purposes or resale;
- 506 (8) Development rights made transferable pursuant to this Code section shall be interests
507 in real property and shall be considered as such for purposes of conveyancing and
508 taxation. Once a deed of transferable development rights created pursuant to this Code
509 section has been sold, conveyed, or otherwise transferred by the owner of the parcel from
510 which the development rights were derived, the transfer of development rights shall vest
511 in the grantee and become freely alienable. For the purposes of ad valorem real property
512 taxation, the value of a transferable development right shall be deemed appurtenant to the
513 sending property until the transferable development right is registered as a distinct
514 interest in real property with the appropriate tax assessor or the transferable development
515 right is used at a receiving property and becomes appurtenant thereto;
- 516 (9) A map or other description of areas designated as sending and receiving areas for the
517 transfer of development rights between properties; and
- 518 (10) Such other provisions as the municipality, township, or county deems necessary to
519 aid in the implementation of the provisions of this chapter.
- 520 (d)(1) Prior to the enactment of an ordinance as provided in subsection (c) of this Code
521 section, the local governing authority shall provide for a hearing on the proposed
522 ordinance. At least 15 but not more than 45 days prior to the date of the hearing, the local

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

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

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

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

540 **SECTION 5.**

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

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

544 **SECTION 6.**

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

547 "ARTICLE 1

548 36-70-1.

549 The local governments of the State of Georgia are of vital importance to the state and its
 550 citizens. The state has an essential public interest in promoting, developing, sustaining, and
 551 assisting local governments. In addition, the natural resources, environment, and vital
 552 areas of the state are of vital importance to the state and its citizens. The state has an
 553 essential public interest in protecting and preserving the natural resources, the environment,
 554 and the vital areas of the state. The purpose of this article is to provide for local
 555 governments to serve these essential public interests of the state by authorizing and

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

562 36-70-2.

563 As used in this chapter, the term:

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

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

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

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

575 (5) 'Governing authority' or 'governing body' means the board of commissioners of a
 576 county, sole commissioner of a county, council, commissioners, township council, or
 577 other governing authority for a county, township, or municipality.

578 (5.1) 'Inactive municipality' means any municipality which has not, for a period of three
 579 consecutive calendar years, carried out any of the following activities:

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

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

583 (C) The holding of a municipal election.

584 (5.2) 'Local government' means any county as defined in paragraph (3) of this Code
 585 section, any township as defined in paragraph (10) of this Code section, or any
 586 municipality as defined in paragraph (7) of this Code section. The term does not include
 587 any school district of this state nor any sheriff, clerk of the superior court, judge of the
 588 probate court, or tax commissioner or the office, personnel, or services provided by such
 589 elected officials.

590 (5.3) 'Mechanisms' includes, but is not limited to, intergovernmental agreements,
 591 ordinances, resolutions, and local Acts of the General Assembly in effect on July 1, 1997,
 592 or executed thereafter.

593 (6) 'Minimum standards and procedures' means the minimum standards and procedures
 594 for preparation of comprehensive plans, for implementation of comprehensive plans, and
 595 for participation in the coordinated and comprehensive planning process, as established
 596 by the department, in accordance with Article 1 of Chapter 8 of Title 50. Minimum
 597 standards and procedures shall include any standards and procedures for such purposes
 598 prescribed by a regional commission for counties, townships, and municipalities within
 599 its region and approved in advance by the department.

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

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

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

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

608 36-70-3.

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

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

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

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

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

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

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

628 36-70-4.

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

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

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

637 36-70-5.

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

641 (b) Any municipality which is as of April 17, 1992, an inactive municipality shall not on
 642 or after April 17, 1992, exercise any powers under this article or exercise any zoning
 643 powers, until and unless the municipality is restored to active status by the enactment of
 644 an appropriate new or amended charter by local Act of the General Assembly. Any
 645 municipality which becomes an inactive municipality after April 17, 1992, shall not after
 646 becoming inactive exercise powers under this article or exercise any zoning powers, until
 647 and unless the municipality is restored to active status by the enactment of an appropriate
 648 new or amended charter by local Act of the General Assembly.

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

653 **SECTION 9.**

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

659

SECTION 10.

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