

House Bill 637 (AS PASSED HOUSE AND SENATE)

By: Representatives Hawkins of the 27th, Dubnik of the 29th, Dunahoo of the 30th, and Barr of the 103rd

A BILL TO BE ENTITLED
AN ACT

1 To create the Lula Development Authority; to provide a short title; to provide definitions; to
2 provide for the powers of the authority; to provide for members of the authority; to provide
3 a development area; to provide for revenue bonds and other obligations of the authority; to
4 recite constitutional authority; to provide for effect on other authorities; to provide for related
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**
8 Short title of Act.

9 This Act shall be known and may be cited as the "Lula Development Authority Act."

10 **SECTION 2.**
11 Definitions.

12 As used in this Act:

13 (1) "Authority" shall mean the Lula Development Authority created pursuant to Section
14 3 of this Act.

15 (2) "Cost of the project" or "cost of any project" shall mean and shall include: all costs
16 of acquisition (by purchase or otherwise), demolition, funds for the creation of a
17 revolving loan fund, construction, assembly, installation, modification, renovation, or
18 rehabilitation incurred in connection with any project or any part of any project; all costs
19 of real property, fixtures, or personal property used in or in connection with or necessary
20 for any project or for any facilities related thereto, including, but not limited to, the cost
21 of all land, estates for years, easements, rights, improvements, water rights, connections
22 for utility services, fees, franchises, permits, approvals, licenses, and certificates; the cost
23 of securing any such franchises, permits, approvals, licenses, or certificates and the cost

24 of preparation of any application therefor; the cost of all fixtures, machinery, equipment,
25 furniture, and other property used in or in connection with or necessary for any project;
26 all financing charges and loan fees and all interest on revenue bonds, notes, or other
27 obligations of an authority which accrues or is paid prior to and during the period of
28 construction of a project and during such additional period as the authority may
29 reasonably determine to be necessary to place such project in operation; all costs of
30 engineering, surveying, architectural, and legal services and all expenses incurred by
31 engineers, surveyors, architects, and attorneys in connection with any project; all
32 expenses for inspection of any project; all fees of fiscal agents, paying agents, and
33 trustees for bondholders under any trust agreement, indenture of trust, or similar
34 instrument or agreement; all expenses incurred by any such fiscal agents, paying agents,
35 and trustees; all other costs and expenses incurred relative to the issuance of any revenue
36 bonds, notes, or other obligations for any project; all fees of any type charged by an
37 authority in connection with any project; all expenses of or incident to determining the
38 feasibility or practicability of any project; all costs of plans and specifications for any
39 project; all costs of title insurance and examinations of title with respect to any project;
40 repayment of any loans made for the advance payment of any part of any of the foregoing
41 costs, including interest thereon and any other expenses of such loans; administrative
42 expenses of the authority and such other expenses as may be necessary or incident to any
43 project or the financing thereof or the placing of any project in operation; and a fund or
44 funds for the creation of a debt service reserve, a renewal and replacement reserve, or
45 such other funds or reserves as the authority may approve with respect to the financing
46 and operation of any project and as may be authorized by any bond resolution, trust
47 agreement, indenture of trust, or similar instrument or agreement pursuant to the
48 provisions of which the issuance of any revenue bonds, notes, or other obligations of the
49 authority may be authorized. Any cost, obligation, or expense incurred for any of the
50 foregoing purposes shall be a part of the cost of the project and may be paid or
51 reimbursed as such out of proceeds of revenue bonds, notes, or other obligations issued
52 by the authority.

53 (3) "Development area" means the geographical area of operations of the authority as
54 described in Section 5 of this Act.

55 (4) "Project" shall mean the acquisition, demolition, construction, installation,
56 modification, renovation, or rehabilitation of land, interests in land, buildings, structures,
57 facilities, or other improvements located or to be located within the development area and
58 the acquisition, installation, modification, renovation, rehabilitation, or furnishing of
59 fixtures, machinery, equipment, furniture, or other property of any nature whatsoever
60 used on, in, or in connection with any such land, interest in land, building, structure,

61 facility, or other improvement, all for the essential public purpose of the development of
 62 trade, commerce, industry, and employment opportunities in the development area. A
 63 project may be for any industrial, commercial, residential, business, office, parking,
 64 public, or other use, including the administration and operation of a revolving loan fund,
 65 provided that a majority of the members of the authority determine, by a resolution duly
 66 adopted, that the project and such use thereof would further the public purpose of this
 67 Act.

68 (5) "Revenue bonds" or "bonds" shall mean any bonds issued by the authority that are
 69 authorized to be issued under the Constitution and laws of the State of Georgia, including
 70 refunding bonds and revenue bonds issued pursuant to Article 3 of Chapter 82 of Title
 71 36 of the O.C.G.A., the "Revenue Bond Law," but not including notes or other
 72 obligations of an authority.

73 SECTION 3.

74 Creation and power of authority.

75 (a) There is created a public body corporate and politic known as the Lula Development
 76 Authority.

77 (b) The authority shall have all of the powers necessary or convenient to carry out and
 78 effectuate the purposes and provisions of this Act, including, but without limiting the
 79 generality of the foregoing, the power to:

80 (1) Sue and be sued;

81 (2) Adopt and amend a corporate seal;

82 (3) Make and execute contracts, agreements, and other instruments necessary or
 83 convenient to exercise the powers of the authority or to further the public purpose for
 84 which the authority is created, including, but not limited to, contracts for construction of
 85 projects, leases of projects, contracts for sale of projects, agreements for loans to finance
 86 projects, and contracts with respect to the use of projects;

87 (4) Acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real and
 88 personal property of every kind and character or any interest therein in furtherance of the
 89 public purpose of the authority;

90 (5) Finance, by loan, grant, lease, or otherwise, construct, demolish, erect, assemble,
 91 purchase, acquire, own, repair, remodel, renovate, rehabilitate, modify, maintain, extend,
 92 improve, install, sell, equip, expand, add to, operate, or manage projects and to pay the
 93 cost of any project from the proceeds of revenue bonds, notes, or other obligations of the
 94 authority or any other funds of the authority, or from any contributions or loans by

95 persons, corporations, partnerships (limited or general), or other entities, all of which the
96 authority is authorized to receive and accept and use;

97 (6) Borrow money to further or carry out its public purpose and to execute revenue
98 bonds; notes; other obligations; leases; trust indentures; trust agreements; agreements for
99 the sale of its revenue bonds, notes, or other obligations; loan agreements; mortgages;
100 deeds to secure debt; trust deeds; security agreements; assignments; and such other
101 agreements or instruments as may be necessary or desirable, in the judgment of the
102 authority, to evidence and to provide security for such borrowing;

103 (7) Issue revenue bonds, notes, or other obligations of the authority and use the proceeds
104 thereof to pay all or any part of the cost of any project and otherwise to further or carry
105 out the public purpose of the authority and to pay all costs of the authority incident to, or
106 necessary and appropriate to, furthering or carrying out such purpose;

107 (8) Make application directly or indirectly to any federal, state, county, or municipal
108 government or agency or to any other source, public or private, for loans, grants,
109 guarantees, or other financial assistance in furtherance of the authority's public purpose
110 and to accept and use the same upon such terms and conditions as are prescribed by such
111 federal, state, county, or municipal government or agency or other source;

112 (9) Enter into agreements with the federal government or any agency thereof to use the
113 facilities or the services of the federal government or any agency thereof in order to
114 further or carry out the public purpose of the authority;

115 (10) Contract for any period not exceeding 50 years with the State of Georgia, state
116 institutions, or any city, town, municipality, or county of the state for the use by the
117 authority of any facilities or services of the state or any such state institution, city, town,
118 municipality, or county or for the use by any state institution or any city, town,
119 municipality, or county of any facilities or services of the authority, provided that such
120 contracts shall deal with such activities and transactions as the authority and any such
121 political subdivision with which the authority contracts are by law authorized to
122 undertake;

123 (11) Extend credit or make loans to any person, corporation, partnership (limited or
124 general), or other entity for the costs of any project or any part of the costs of any project,
125 which credit or loans may be evidenced or secured by loan agreements, notes, mortgages,
126 deeds to secure debt, trust deeds, security agreements, assignments, or other instruments
127 or by rentals, revenues, fees, or charges, upon such terms and conditions as the authority
128 shall determine to be reasonable in connection with such extension of credit or loans,
129 including provision for the establishment and maintenance of reserve funds, and, in the
130 exercise of powers granted in connection with any project, the authority shall have the
131 right and power to require the inclusion in any such loan agreement, note, mortgage, deed

132 to secure debt, trust deed, security agreement, assignment, or other instrument of such
133 provisions or requirements for guarantee of any obligations, insurance, construction, use,
134 operation, maintenance, and financing of a project and such other terms and conditions
135 as the authority may deem necessary or desirable;

136 (12) As security for repayment of any revenue bonds, notes, or other obligations of the
137 authority, pledge, mortgage, convey, assign, hypothecate, or otherwise encumber any
138 property of the authority (including but not limited to real property, fixtures, personal
139 property, and revenues or other funds) and to execute any lease; trust indenture; trust
140 agreement; agreement for the sale of the authority's revenue bonds, notes, or other
141 obligations; loan agreement; mortgage; deed to secure debt; trust deed; security
142 agreement; assignment; or other agreement or instrument as may be necessary or
143 desirable in the judgment of the authority to secure any such revenue bonds, notes, or
144 other obligations, which instruments or agreements may provide for foreclosure or forced
145 sale of any property of the authority upon default in any obligation of the authority, either
146 in payment of principal, premium, if any, or interest or in the performance of any term
147 or condition contained in any such agreement or instrument. The State of Georgia on
148 behalf of itself and each county, municipal corporation, political subdivision, or taxing
149 district therein waives any right it or such county, municipal corporation, political
150 subdivision, or taxing district may have to prevent the forced sale or foreclosure of any
151 property of the authority upon such default and agrees that any agreement or instrument
152 encumbering such property may be foreclosed in accordance with law and the terms
153 thereof;

154 (13) Receive and use the proceeds of any tax levied by a county or municipal corporation
155 to pay the costs of any project or for any other purpose for which the authority may use
156 its own funds pursuant to this Act;

157 (14) Receive and administer gifts, grants, and devises of money and property of any kind
158 and to administer trusts;

159 (15) Use any real property, personal property, or fixtures or any interest therein, to rent
160 or lease such property to or from others or make contracts with respect to the use thereof,
161 or to sell, lease, exchange, transfer, assign, pledge, or otherwise dispose of or grant
162 options for any such property in any manner as it deems to the best advantage of the
163 authority and the public purpose thereof;

164 (16) Acquire, accept, or retain equitable interests, security interests, or other interests in
165 any real property, personal property, or fixtures by loan agreement, note, mortgage, deed
166 to secure debt, trust deed, security agreement, assignment, pledge, conveyance, contract,
167 lien, loan agreement, or other consensual transfer in order to secure the repayment of any
168 monies loaned or credit extended by the authority;

- 169 (17) Appoint, select, and employ engineers, surveyors, architects, urban or city planners,
 170 developers, fiscal agents, attorneys, and others and to fix their compensation and pay their
 171 expenses;
- 172 (18) Encourage and promote the improvement and revitalization of the development area
 173 and to make, contract for, or otherwise cause to be made long-range plans or proposals
 174 for the development area in cooperation with the county within which the development
 175 area is located;
- 176 (19) Adopt bylaws governing the conduct of business by the authority, the election and
 177 duties of officers of the authority, and other matters which the authority determines to
 178 deal within its bylaws;
- 179 (20) Exercise any power granted by the laws of the State of Georgia to public or private
 180 corporations which is not in conflict with the public purpose of the authority; and
- 181 (21) Do all things necessary or convenient to carry out the powers conferred by this Act.
- 182 (c) The powers enumerated in subsection (b) of this section are cumulative with and in
 183 addition to those enumerated elsewhere in this Act, and no such power limits or restricts
 184 any other power of the authority.

185 **SECTION 4.**

186 **Members of authority; disqualifications.**

- 187 (a) The authority shall be composed of seven members as follows:
- 188 (1) One member shall be the mayor of the City of Lula;
- 189 (2) One member shall be a member of the governing authority of Hall County;
- 190 (3) Three members shall be either a taxpayer residing in the City of Lula, a taxpayer
 191 residing in Hall County who owns or operates a business located within the city, or a
 192 taxpayer residing in Hall County who owns or operates a business located within either
 193 the water or sewer service area of the City of Lula, appointed by the governing authority
 194 of the City of Lula;
- 195 (4) One member shall be either a taxpayer residing in the portion of Hall County within
 196 either the water or sewer service area of the City of Lula or a person who owns or
 197 operates a business located within either the water or sewer service area of the City of
 198 Lula, appointed by the governing authority of Hall County; and
- 199 (5) One member shall be either a taxpayer residing in Hall County or a person who owns
 200 or operates a business located within Hall County, appointed by the governing authority
 201 of the City of Lula.
- 202 (b) Terms of office of members of the authority shall be for four years and until their
 203 successors are appointed and qualified, except that two of the initial members appointed

204 by the governing authority of the City of Lula pursuant to paragraph (3) of subsection (a)
 205 of this section shall serve initial terms of office of two years and until their successors are
 206 appointed and qualified. Thereafter, terms of office of all members of the authority shall
 207 be for four years and until their successors are appointed and qualified. Any vacancy of
 208 office shall be filled in like manner as the original appointment, and the person appointed
 209 to fill such vacancy shall serve for the remainder of the unexpired term and until a
 210 successor is appointed and qualified.

211 (c) No member of the authority shall be disqualified from serving on the authority because
 212 of any pecuniary interest in a project as defined in Section 2 of this Act, but the fact of such
 213 interest shall be disclosed by such member and recorded on the minutes of the authority.
 214 The member shall abstain from voting on any project in which he or she has such pecuniary
 215 interest.

216 (d) The members of the authority shall elect from their membership officers to serve terms
 217 to be determined by a subsequent organizing resolution adopted by the board, and such
 218 officers shall include a chairperson, vice chairperson, and secretary-treasurer.

219 **SECTION 5.**

220 Development area; change of boundaries.

221 The development area defined in this Act shall be all of that tract or parcel of land within the
 222 City of Lula, as well as those tracts or parcels of land in unincorporated Hall County within
 223 the City of Lula water service area and those tracts or parcels of land in unincorporated Hall
 224 County within the City of Lula sewer service area on July 1, 2019.

225 **SECTION 6.**

226 Revenue bonds.

227 Revenue bonds, notes, or other obligations issued by an authority shall be paid solely from
 228 the property (including but not limited to real property, fixtures, personal property, revenues,
 229 or other funds) pledged, mortgaged, conveyed, assigned, hypothecated, or otherwise
 230 encumbered to secure or to pay such bonds, notes, or other obligations. All revenue bonds,
 231 notes, and other obligations shall be authorized by resolution of the authority and adopted
 232 by a majority vote of the directors of the authority at a regular or special meeting. Such
 233 revenue bonds, notes, or other obligations shall bear such date or dates; shall mature at such
 234 time or times not more than 40 years from their respective dates; shall bear interest at such
 235 rate or rates (which may be fixed or may fluctuate or otherwise change from time to time);
 236 shall be subject to redemption on such terms; and shall contain such other terms, provisions,

237 covenants, assignments, and conditions as the resolution authorizing the issuance of such
238 bonds, notes, or other obligations may permit or provide. The terms, provisions, covenants,
239 assignments, and conditions contained in or provided or permitted by any resolution of the
240 authority authorizing the issuance of such revenue bonds, notes, or other obligations shall
241 bind the directors of the authority then in office and their successors. The authority shall
242 have power from time to time and whenever it deems expedient to refund any bonds by the
243 issuance of new bonds, whether the bonds to be refunded have or have not matured, and may
244 issue bonds partly to refund bonds then outstanding and partly for any other purpose
245 permitted under this Act. The refunding bonds may be exchanged for the bonds to be
246 refunded with such cash adjustments as may be agreed upon or may be sold and the proceeds
247 applied to the purchase or redemption of the bonds to be refunded. There shall be no
248 limitation upon the amount of revenue bonds, notes, or other obligations which the authority
249 may issue. Any limitations with respect to interest rates or any maximum interest rate or
250 rates found in the Revenue Bond Law (Ga. L. 1937, p. 761), as now or hereafter amended,
251 the usury laws of the State of Georgia, or any other laws of the State of Georgia shall not
252 apply to revenue bonds, notes, or other obligations of an authority.

253

SECTION 7.

254

Provisions and obligations; limitations and procedures.

255 (a) Subject to the limitations and procedures provided by this section, the agreements or
256 instruments executed by the authority may contain such provisions not inconsistent with
257 law as shall be determined by the board of directors of the authority.

258 (b) The proceeds derived from the sale of all bonds, notes, and other obligations issued by
259 the authority shall be held and used for the ultimate purpose of paying, directly or
260 indirectly as permitted in this Act, all or part of the cost of any project or for the purpose
261 of refunding any bonds, notes, or other obligations issued in accordance with the provisions
262 of this Act.

263 (c) Issuance by an authority of one or more series of bonds, notes, or other obligations for
264 one or more purposes shall not preclude it from issuing other bonds, notes, or other
265 obligations in connection with the same project or with any other projects, but the
266 proceeding wherein any subsequent bonds, notes, or other obligations shall be issued shall
267 recognize and protect any prior loan agreement, mortgage, deed to secure debt, trust deed,
268 security agreement, or other agreement or instrument made for any prior issue of bonds,
269 notes, or other obligations unless in the resolution authorizing such prior issue the right is
270 expressly reserved to the authority to issue subsequent bonds, notes, or other obligations
271 on a parity with such prior issue.

272 (d) The authority shall have the power and is authorized, whenever bonds of the authority
273 shall have been validated as provided in this Act, to issue from time to time its notes in
274 anticipation of such bonds as validated and to renew from time to time any such notes by
275 the issuance of new notes, whether the notes to be renewed have or have not matured. The
276 authority may issue such bond anticipation notes only to provide funds which would
277 otherwise be provided by the issuance of the bonds as validated. Such notes may be
278 authorized, sold, executed, and delivered in the same manner as bonds. As with its bonds,
279 the authority may sell such notes at public or private sale. Any resolution or resolutions
280 authorizing notes of the authority or any issue thereof may contain any provisions which
281 the authority is authorized to include in any resolution or resolutions authorizing bonds of
282 the authority or any issue thereof, and the authority may include in any notes any terms,
283 covenants, or conditions which the authority is authorized to include in any bonds.
284 Validation of such bonds shall be a condition precedent to the issuance of such notes, but
285 it shall not be required that such notes be judicially validated. Bond anticipation notes shall
286 not be issued in an amount exceeding the par value of the bonds in anticipation of which
287 they are to be issued.

288 (e) All bonds issued by the authority under this Act shall be issued and validated under and
289 in accordance with the Revenue Bond Law, as heretofore and hereafter amended, except
290 as provided in this Act, provided that notes and other obligations of the authority may, but
291 shall not be required to, be so validated.

292 (f) Bonds issued by an authority may be in such form, either coupon or fully registered or
293 both, and may be subject to exchangeability and transferability provisions as the bond
294 resolution authorizing the issuance of such bonds or any indenture or trust agreement may
295 provide.

296 (g) Bonds shall bear a certificate of validation. The signature of the clerk of the superior
297 court of the judicial circuit in which the issuing authority is located may be made on the
298 certificate of validation of such bonds by facsimile or by manual execution stating the date
299 on which such bonds were validated, and such entry shall be original evidence of the fact
300 of judgment and shall be received as original evidence in any court in this state.

301 (h) In lieu of specifying the rate or rates of interest which bonds to be issued by an
302 authority are to bear, the notice to the district attorney or Attorney General; the notice to
303 the public of the time, place, and date of the validation hearing; and the petition and
304 complaint for validation may state that the bonds when issued will bear interest at a rate not
305 exceeding a maximum per annum rate of interest (which may be fixed or may fluctuate or
306 otherwise change from time to time) specified in such notices and petition and complaint
307 or that, in the event the bonds are to bear different rates of interest for different maturity
308 dates, that none of such rates will exceed the maximum rate (which may be fixed or may

309 fluctuate or otherwise change from time to time) so specified; provided, however, that
310 nothing contained herein shall be construed as prohibiting or restricting the right of the
311 authority to sell such bonds at a discount, even if in doing so the effective interest cost
312 resulting therefrom would exceed the maximum per annum interest rate specified in such
313 notices and in the petition and complaint.

314 **SECTION 8.**

315 Purpose and declaration of need.

316 The revitalization and redevelopment of the development area as defined in this Act develop
317 and promote trade, commerce, industry, and employment opportunities for the public good
318 and general welfare and promote the general welfare of the state by creating a climate
319 favorable to the location of new industry, trade, and commerce and the development of
320 existing industry, trade, and commerce within the City of Lula water and sewer service area
321 and the State of Georgia. Revitalization and redevelopment of the development area by
322 financing projects under the Act will develop and promote, for the public good and general
323 welfare, trade, commerce, industry, and employment opportunities and will promote the
324 general welfare of the state. It is therefore in the public interest and is vital to the public
325 welfare of the people of Georgia, and it is declared to be the public purpose of this Act to so
326 revitalize and redevelop the development area. No bonds, notes, or other obligations (except
327 refunding bonds) shall be issued by the authority hereunder unless its board of directors
328 adopts a resolution finding that the project for which such bonds, notes, or other obligations
329 are to be issued will promote the foregoing objectives.

330 **SECTION 9.**

331 Construction of Act.

332 The provisions of this Act shall be liberally construed to effect the purpose hereof. The offer,
333 sale, or issuance of bonds, notes, or other obligations by any authority shall not be subject
334 to regulation under Georgia laws regulating the sale of securities, as heretofore and hereafter
335 amended. No notice, proceeding, or publication except those required by this Act shall be
336 necessary to the performance of any act authorized by this Act nor shall any such act be
337 subject to referendum.

338 **SECTION 10.**

339 Bonds, notes, and other obligations not to constitute public debt.

340 No bonds, notes, or other obligations of and no indebtedness incurred by the authority shall
341 constitute an indebtedness or obligation of the State of Georgia or any county, municipal
342 corporation, or political subdivision thereof nor shall any act of the authority in any manner
343 constitute or result in the creation of an indebtedness of the state or any such county,
344 municipal corporation, or political subdivision. No holder or holders of any such bonds,
345 notes, or other obligations shall ever have the right to compel any exercise of the taxing
346 power of the state or any county, municipal corporation, or political subdivision thereof or
347 to enforce the payment thereof against the state or any such county, municipal corporation,
348 or political subdivision.

349 **SECTION 11.**

350 Constitutional authority for Act; tax exemption of authorities.

351 (a) This Act is enacted pursuant to Article IX, Section VI, Paragraph III of the Constitution
352 of Georgia.

353 (b) The obligations, properties, activities, and income of the authority shall be subject to
354 such tax exemptions as may be provided by general law.

355 **SECTION 12.**

356 Effect on other authorities.

357 This Act shall not affect any other authority now or hereafter existing under general or local
358 constitutional amendment or general or local law.

359 **SECTION 13.**

360 Repealer.

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