

Senate Bill 473

By: Senator Harper of the 7th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 3 of Title 12 of the Official Code of Georgia Annotated, relating to
2 conservation and natural resources, so as to transfer duties, powers, responsibilities, and other
3 authority relative to historic preservation from the Department of Natural Resources to the
4 Department of Community Affairs; to amend Article 3 of Chapter 2 of Title 40 of the
5 Official Code of Georgia Annotated, relating to prestige license plates and special plates for
6 certain persons and vehicles, so as to disburse the fund allocated from the Department of
7 Natural Resources to the Department of Community Affairs; to amend the Official Code of
8 Georgia Annotated, so as to conform cross-references; to provide for related matters; to
9 repeal conflicting laws; and for other purposes.

10 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

11 **SECTION 1.**

12 Chapter 3 of Title 12 of the Official Code of Georgia Annotated, relating to conservation and
13 natural resources, is amended in Code Section 12-3-50.1, relating to grants for preservation
14 of "historic properties" and additional powers and duties of department, by revising
15 subsection (c) as follows:

16 "~~(c) The Department of Natural Resources, through its Division of Historic Preservation,~~
17 Community Affairs shall have the additional powers and duties:

- 18 (1) To cooperate with agencies of the federal government, other agencies of the state and
19 political subdivisions thereof, and private organizations and individuals, to direct and
20 conduct a comprehensive state-wide survey of historic properties;
21 (2) To maintain an inventory and register of historic properties;
22 (3) To document, research, record, and evaluate the significance of historic properties;
23 (4) To prepare comprehensive state-wide and regional historic preservation plans;
24 (5) To provide technical assistance to and cooperate with agencies of the federal
25 government, other agencies of the state and political subdivisions thereof, and private

- 26 organizations and individuals in the development of historic preservation plans,
 27 programs, and projects;
- 28 (6) To cooperate with agencies of the federal government, other agencies of the state and
 29 political subdivisions thereof, and private organizations and individuals, in order that
 30 historic properties are taken into consideration at all levels of planning and development;
- 31 (7) To propose programs and activities to protect, preserve, and encourage the
 32 preservation of historic properties in this state;
- 33 (8) To administer programs of financial and technical assistance for historic preservation
 34 projects, including all grants made under authority of this Code section, and to specify
 35 the terms and conditions under which any grants of funds are made or used;
- 36 (9) To make recommendations on the certification and eligibility of historic properties
 37 for tax incentives and other programs of public benefit or assistance;
- 38 (10) To perform those duties and responsibilities assigned to the ~~department~~ Department
 39 of Community Affairs under Article 3 of Chapter 2 of Title 8, under Article 1 of Chapter
 40 10 of Title 44, and under Article 2 of Chapter 10 of Title 44;
- 41 (11) To provide public information and education, technical assistance, and training
 42 relating to historic preservation;
- 43 (12) To encourage public interest and participation in historic preservation;
- 44 (13) To advise and assist the state historic preservation officer, who shall be appointed
 45 to serve at the pleasure of the Governor; and
- 46 (14) To advise the Governor and the General Assembly on matters relating to historic
 47 preservation."

48

SECTION 2.

49 Said chapter is further amended in Code Section 12-3-50.2, relating to the Georgia Register
 50 of Historic Places, by revising subsection (e) as follows:

51 "(e) Any person who is aggrieved or adversely affected by any order or action of the
 52 ~~department~~ Department of Community Affairs pursuant to this Code section shall, upon
 53 petition within 30 days after the issuance of such order or taking of such action, have a
 54 right to a hearing before an administrative law judge appointed by the ~~Board of Natural~~
 55 ~~Resources~~ Department of Community Affairs. The hearing before the administrative law
 56 judge shall be conducted in accordance with Chapter 13 of Title 50, the 'Georgia
 57 Administrative Procedure Act.' The decision of the administrative law judge shall
 58 constitute the final decision of the ~~board~~ Department of Community Affairs and any party
 59 to the hearing, including the ~~department~~ Department of Community Affairs, shall have the
 60 right of judicial review thereof in accordance with Chapter 13 of Title 50, the 'Georgia
 61 Administrative Procedure Act.'"

62 **SECTION 3.**

63 Said chapter is further amended in Code Section 12-3-55, relating to general provisions and
64 preservation of state owned historic properties, by revising subsection (a), paragraph (1) of
65 subsection (c), and paragraph (4) of subsection (d) as follows:

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

67 (1) '~~Director~~' 'Commissioner' means the ~~director of the Division of Historic Preservation~~
68 ~~of the department~~ commissioner of community affairs.

69 (2) '~~Division~~' 'Department' means the ~~Division of Historic Preservation of the department~~
70 Department of Community Affairs."

71 "(1) Each agency shall commence by not later than December 31, 1998, consistent with
72 the preservation of such properties and the mission of the agency and professional
73 preservation standards established by the ~~division~~ department and in consultation with
74 the division and with the 1998 Joint Study Committee on Historic Preservation, a study
75 of planning processes which may be required for any preservation as may be necessary
76 to effectuate this Code section;"

77 "(4) The agency's procedures for compliance with historic preservation provisions of this
78 part:

79 (A) Are consistent with procedures issued by the Environmental Protection Division
80 of the ~~department~~ Department of Natural Resources pursuant to Chapter 16 of this title,
81 the 'Environmental Policy Act,' as amended;

82 (B) Provide a process for the identification and evaluation of historic properties for
83 listing in the Georgia Register of Historic Places and the development and
84 implementation of agreements in consultation with the ~~director~~ commissioner, local
85 governments, Native American tribes, and the interested public, as appropriate,
86 regarding the means by such adverse effects on such properties will be considered; and

87 (C) Provide for the disposition of Native American cultural items from state or tribal
88 land in a manner consistent with Section 3(c) of the Native American Graves Protection
89 and Repatriation Act, 25 U.S.C. Section 3002(c), as amended."

90 **SECTION 4.**

91 Said chapter is further amended in Code Section 12-3-56, relating to revitalization of central
92 business districts, and government presence in historic districts, by revising subsection (a)
93 as follows:

94 "(a) As used in this Code section, the term '~~division~~' 'department' means the ~~Division of~~
95 ~~Historic Preservation of the department~~ Department of Community Affairs."

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SECTION 5.

97 Said chapter is further amended in Code Section 12-3-58, relating to powers, duties, and
 98 authority of the Department of Natural Resources and the Division of Historic Preservation
 99 of the Department of Natural Resources and historic preservation grant program, by revising
 100 subsection (e) as follows:

101 ~~"(e)(1) The director shall review and make recommendations to the commissioner, who~~
 102 commissioner of the Department of Community Affairs shall approve each grant or
 103 expenditure of moneys from the grant fund.

104 (2) Except for the emergency reserve allocation referred to in paragraph (3) of this
 105 subsection, the ~~director's recommendations to the commissioner~~ commissioner of the
 106 Department of Community Affairs decision on the granting of moneys from the grant
 107 fund to nonprofit organizations and local jurisdictions shall be based on a competitive
 108 selection process.

109 (3) In any given fiscal year, the commissioner may allocate up to 20 percent of the total
 110 moneys available in the grant fund to be held in reserve for unanticipated emergency use
 111 in accordance with subsection (d) of this Code section.

112 (4) In any given year, expenditures for routine administration of the grant program may
 113 not exceed 10 percent of the total moneys available in the grant fund."

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SECTION 6.

115 Article 3 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to
 116 prestige License Plates and Special Plates for certain persons and vehicles, is amended in
 117 Code Section 40-2-86, relating to special license plates promoting or supporting certain
 118 worthy agencies, funds, or nonprofit corporations with proceeds disbursed to the general fund
 119 and the agency, fund, or nonprofit corporation, by revising paragraph (4) of subsection (m)
 120 as follows:

121 "(4) A special license plate promoting historic preservation efforts. The funds raised by
 122 the sale of this special license plate shall be disbursed as provided in paragraph (1) of this
 123 subsection to the ~~Department of Natural Resources for use by the Historic Preservation~~
 124 ~~Division~~ Department of Community Affairs to fund historic preservation programs in the
 125 state through the Georgia historic preservation grant program as otherwise authorized by
 126 law."

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SECTION 7.

128 The Official Code of Georgia Annotated is amended by replacing "Division" with
 129 "Department of Community Affairs" or "division" with "Department of Community Affairs"
 130 wherever the former terms occur in:

- 131 (1) Code Section 12-3-55, relating to general provisions and preservation of state owned
 132 historic properties;
- 133 (2) Code Section 12-3-56, relating to revitalization of central business districts and
 134 government presence in historic districts;
- 135 (3) Code Section 12-3-57, relating to legislative findings, historical and museum assistance
 136 program, and responsibilities; and
- 137 (4) Code Section 12-3-58, relating to powers, duties, and authority of the Department of
 138 Natural Resources and the Division of Historic Preservation of the Department of Natural
 139 Resources and historic grant program.

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SECTION 8.

141 The Official Code of Georgia Annotated is amended by replacing "Director" with
 142 "Commissioner of the Department of Community Affairs" or "director" with "commissioner
 143 of Community Affairs" wherever the former terms occur in:

- 144 (1) Code Section 12-3-55, relating to general provisions and preservation of state owned
 145 historic properties;
- 146 (2) Code Section 12-3-57, relating to legislative findings, historical and museum assistance
 147 program, and responsibilities; and
- 148 (3) Code Section 12-3-58, relating to powers, duties, and authority of the Department of
 149 Natural Resources and the Division of Historic Preservation of the Department of Natural
 150 Resources and historic grant program.

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SECTION 9.

152 The Official Code of Georgia Annotated is amended by replacing "Department of Natural
 153 Resources" with "Department of Community Affairs" wherever the former term occurs in:

- 154 (1) Code Section 12-3-50.2, relating to Georgia Register of Historic Places;
- 155 (2) Code Section 48-5-7.2, relating to certification as rehabilitated historic property for
 156 purposes of preferential assessment;
- 157 (3) Code Section 48-5-7.3, relating to landmark historic property;
- 158 (4) Code Section 48-7-29.8, relating to tax credits for rehabilitation of historic structures and
 159 conditions and limitations;
- 160 (5) Code Section 48-7-29.8, (Effective after December 31, 2021) relating to tax credits for
 161 rehabilitation of historic structures and conditions and limitations;
- 162 (6) Code Section 50-16-5.1, relating to the Commission on the Preservation of the State
 163 Capitol; and
- 164 (7) Code Section 50-18-72, relating to when public disclosure is not required.

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SECTION 10.

166 The Official Code of Georgia Annotated is amended by replacing "Board of Natural
167 Resources" with "Department of Community Affairs" wherever the former term occurs in:

168 (1) Code Section 25-2-13, relating to buildings presenting special hazards to persons or
169 property, requirements, effect of rules, regulations, and fire safety standards issued before
170 April 1, 1968, and power of local governing authorities;

171 (2) Code Section 48-5-7.2, relating to certification as rehabilitated historic property for
172 purposes of preferential assessment; and

173 (3) Code Section 48-5-7.3, relating to landmark historic property.

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SECTION 11.

175 The Official Code of Georgia Annotated is amended by replacing "Division of Historic
176 Preservation of the Department of Natural Resources" and "Division of Historic Preservation
177 of the department" with "Department of Community Affairs" wherever the former term
178 occurs in:

179 (1) Code Section 12-3-50.2, relating to Georgia Register of Historic Places;

180 (2) Code Section 12-3-57, relating to legislative findings, historical and museum assistance
181 program, and responsibilities;

182 (3) Code Section 12-3-58, relating to powers, duties, and authority of the Department of
183 Natural Resources and the Division of Historic Preservation of the Department of Natural
184 Resources and historic grant program;

185 (4) Code Section 44-10-25, relating to historic preservation commission -- establishment or
186 designation, number, eligibility, and terms of members; and

187 (5) Code Section 44-10-26, relating to designation by ordinance of historic properties or
188 districts, required provisions, investigation and report, submittal to Department of Natural
189 Resources, notice and hearing, and notification of owners.

190 (6) Code Section 48-7-40.32, relating to revitalization zone tax credits.

191

SECTION 12.

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