

House Bill 916

By: Representatives Leverett of the 33rd and Wilensky of the 79th

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, so
2 as to provide for a unified procedure for appealing decisions of a lower judicatory to a
3 superior or state court; to provide for a short title; to provide for legislative findings and
4 intent; to provide for definitions; to provide for superior and state court appellate jurisdiction
5 and related exceptions; to provide for the preemption of certain laws; to provide for a
6 uniform appellate procedure to superior and state courts; to clarify the standard of review;
7 to provide for appeals to a jury; to provide for the permissibility of equitable practices and
8 procedures not prescribed; to provide for standardized general procedures for appeals to
9 superior and state court; to provide for petitions for review, responses, replies, and
10 amendments thereto; to provide for the management of court proceedings and other related
11 matters; to provide for service of process; to provide for deadline extensions; to provide for
12 limited grounds for dismissal; to provide for transfer when venue or jurisdiction is improper;
13 to provide for the record on appeal; to provide for transmission of the record; to provide for
14 notice of a petitioner confined to jail; to provide for remand; to provide for the payment of
15 costs and related exceptions; to provide for bonds and related security; to provide for
16 procedures after review; to provide for dismissal or withdrawal and the effects thereof; to
17 provide for damages for frivolous appeals and defenses in civil cases; to provide for the
18 recovery of costs; to repeal and reserve Chapter 4 of said title, relating to certiorari to

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19 superior court; to amend various titles of the Official Code of Georgia Annotated, so as to
20 provide for conforming changes; to correct cross-references and remove obsolete or improper
21 references; to provide for related matters; to provide for an effective date and applicability;
22 to repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

24 **PART I.**
25 **SECTION 1-1.**

26 Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is amended
27 by repealing in its entirety Chapter 3, relating to appeals to superior or state court, and
28 enacting a new Chapter 3 to read as follows:

29 "CHAPTER 3

30 5-3-1.

31 This chapter shall be known and may be cited as the 'Superior and State Court Appellate
32 Practice Act.'

33 5-3-2.

34 (a) The General Assembly finds that many appeals from a lower judicatory to a superior
35 or state court result in dismissal on complex procedural grounds and not a decision on the
36 merits.

37 (b) It is the intent of the General Assembly in enacting this chapter to:

38 (1) Provide a single, modern, and uniform procedure called a 'petition for review' for
39 appealing a decision made by a lower judicatory to a superior or state court, as authorized
40 by the laws and the Constitution of this state;

41 (2) Increase access to justice through the greater resolution of appeals on the basis of
42 substantive issues rather than on complex procedural grounds; and

43 (3) Retain the limited appellate jurisdiction of state courts prescribed in the Constitution
44 of Georgia and Code sections outside of this chapter.

45 (c) Consistent with the laws and the Constitutions of Georgia and the United States, the
46 courts shall:

47 (1) Construe the provisions of this chapter broadly so as to render decisions based on the
48 merits of each case and avoid dismissal of any case or refusal to consider any points
49 raised therein unless such dismissal or refusal is expressly required by statute;

50 (2) Construe any petition for review filed under this chapter according to its substance,
51 merit, and function and not merely its style, form, or title; and

52 (3) Not construe this chapter to expand the limited appellate jurisdiction of state courts
53 prescribed in the Constitution of Georgia and Code sections outside of this chapter.

54 5-3-3.

55 As used in this chapter, the term:

56 (1) 'Article 6 probate court' means a probate court with expanded jurisdiction as provided
57 in Article 6 of Chapter 9 of Title 15.

58 (2) 'Clerk' means a clerk of court or an individual who acts as the functional equivalent
59 of a clerk of court if a lower judicatory does not have an official clerk of court.

60 (3) 'Decision' means any formal or informal adjudication, decision, determination,
61 judgment, order, ruling, or other act of a judicatory that is judicial or quasi-judicial in
62 nature.

63 (4) 'Final judgment' means a decision of a lower judicatory in a case that is no longer
64 pending in a lower judicatory in which a petitioner has:

65 (A) Exhausted all appeals or administrative remedies available in the lower judicatory;
66 and

67 (B) Satisfied all conditions precedent to appeal provided by law, including, but not
68 limited to, the conditions provided for in Code Section 33-2-26.

69 (5) 'Judicatory' means any court, official, board, tribunal, commission, municipal or
70 county authority, council, or similar body exercising judicial or quasi-judicial powers
71 authorized by law. The term 'judicatory' shall include an arbitrator, administrative law
72 judge, mediator, or similar adjudicator authorized by law to act on behalf or at the request
73 of any public official or body.

74 (6) 'Lower judicatory' means any judicatory:

75 (A) Inferior in authority to the superior and state courts; and

76 (B) Subject to the appellate jurisdiction of the superior or state courts as provided by
77 the laws and the Constitution of this state.

78 (7) 'Perfect' or 'perfected' means to take all legal steps needed to complete service of
79 process.

80 (8) 'Person' means an individual, corporation, association, partnership, other
81 organization, or other entity.

82 (9) 'Petition for review' means any request for review of a final judgment filed in a
83 reviewing court by a petitioner, including, but not limited to, any request for review
84 formerly titled as a petition for writ of certiorari, petition for writ of mandamus, petition
85 for writ of prohibition, or notice of appeal.

86 (10) 'Reporting' shall have the same meaning as the term 'court reporting' as defined in
87 paragraph (4) of Code Section 15-14-22.

88 (11) 'Respondent' means a person who is adverse to the petitioner and a party to the
89 dispute underlying the final judgment rendered by the lower judicatory. Except for

90 reasons other than having rendered the final judgment under review, the term 'respondent'
91 shall not include any judge, official, or member of the lower judicatory that rendered the
92 final judgment under review.

93 (12) 'Reviewing court' means a superior or state court reviewing a final judgment
94 pursuant to this chapter.

95 5-3-4.

96 (a) Except as provided in subsection (b) of this Code section, the superior and state courts
97 shall have appellate jurisdiction pursuant to this chapter over a final judgment of a lower
98 judicatory.

99 (b) The superior courts shall not have appellate jurisdiction pursuant to this chapter over
100 any state court. The state courts shall not have appellate jurisdiction pursuant to this
101 chapter over any superior court. In addition, neither a superior court nor a state court shall
102 have appellate jurisdiction pursuant to this chapter over the following courts or matters:

103 (1) Juvenile courts;

104 (2) The Municipal Court of Columbus;

105 (3) The Civil Court of Macon-Bibb County;

106 (4) The Civil Court of Richmond County;

107 (5) The Georgia State-wide Business Court;

108 (6) A civil case in an Article 6 probate court; and

109 (7) An order appointing a temporary administrator.

110 (c) Except as provided in subsection (g) of Code Section 5-3-17, this chapter shall preempt
111 any local law or any locally enacted law, ordinance, regulation, rule, or procedure in
112 conflict with this chapter governing an appeal of a final judgment to a reviewing court.

113 5-3-5.

114 (a) Except as provided in subsection (b) of this Code section or otherwise provided by law,
115 a reviewing court shall:

116 (1) Review only matters raised in the record of the proceeding in the lower judiciary;

117 (2) Accept the findings of fact and credibility of the lower judiciary unless they are
118 clearly erroneous;

119 (3) Accept a decision regarding an issue within the sound discretion of the lower
120 judiciary unless such a decision was an abuse of discretion;

121 (4) Determine whether the final judgment was sustained by sufficient evidence; and

122 (5) Review questions of law de novo.

123 (b) A reviewing court shall conduct a de novo proceeding under this chapter if a de novo
124 proceeding is specified by law. Cases reviewed under this subsection shall be heard by the
125 reviewing court without a jury unless a jury trial is ordered by the reviewing court and
126 authorized by law.

127 (c) A demand for a jury trial under this chapter shall be filed in the reviewing court
128 within 30 days after filing a petition for review.

129 5-3-6.

130 (a) A petitioner invokes the appellate jurisdiction of a reviewing court under this chapter
131 by filing a petition for review with the clerk of the reviewing court.

132 (b) The consent of the lower judiciary shall not be required for the filing of a petition for
133 review.

134 5-3-7.

135 (a) Except as otherwise prescribed by law, superior and state court appellate practices and
136 procedures not prescribed in this chapter shall be governed by the applicable superior or
137 state court rules and orders of the reviewing court not in conflict with this chapter.

138 (b) A petitioner shall file a petition for review with the clerk of the reviewing court
139 within 30 days after the final judgment of the lower judicatory is:

140 (1) Signed and notice of the final judgment has been provided to all parties, if the lower
141 judicatory does not have a clerk; or

142 (2) Filed or recorded, whichever first occurs, if the lower judicatory has a clerk.

143 (c) Except as provided in subsection (d) of this Code section, all parties to the proceedings
144 in the lower judicatory are parties in the reviewing court.

145 (d) Except for reasons other than having rendered the final judgment under review, any
146 judge, official, or member of a lower judicatory that rendered the final judgment under
147 review shall not be a party, defendant, or respondent in a petition for review. To correct
148 such error, the reviewing court shall:

149 (1) Require a petitioner to amend the petition for review; or

150 (2) Upon the reviewing court's own motion, order the erroneously named judge, official,
151 or member of a lower judicatory dismissed.

152 (e) Except as otherwise required by law, a petition for review shall contain in substantially
153 similar form the following:

154 (1) A caption stating the name of the petitioner and the name of the respondent, if any;

155 (2) The title 'PETITION FOR REVIEW TO SUPERIOR COURT' or 'PETITION FOR
156 REVIEW TO STATE COURT' below the caption;

157 (3) A body that includes the following:

158 (A) The statement: '(name of petitioner), the petitioner named above, hereby petitions
159 the (Superior or State) Court of (name of county) for review of the final judgment
160 rendered by (name of lower judicatory) on (date) with the following case number
161 designated by the lower judicatory: (lower judicatory case number).':

162 (B) A concise statement of the final judgment being appealed;

163 (C) A brief statement describing any existing recording, transcript, or other record of
164 evidence in the lower judicatory; and

165 (D) If the case before the lower judicatory is a criminal case, then a brief statement of
166 the offense and sentence prescribed by the lower judicatory, if any, including whether
167 the petitioner is confined in jail or otherwise incarcerated pending the appeal; and
168 (4) The name, mailing address, telephone number, and email address, if any, of:
169 (A) The attorney for the petitioner; or
170 (B) The petitioner, if the petitioner is not represented by an attorney.
171 (f) Failure to provide the information required by subsection (e) of this Code section shall
172 be an amendable defect, and such defect shall be cured as directed by the reviewing court.
173 (g) The petitioner shall serve a copy of the petition for review on all parties within five
174 days after filing the petition for review in the reviewing court.
175 (h) The petitioner shall serve the lower judicatory with a copy of the filed petition for
176 review within five days after filing the petition for review in the reviewing court. The copy
177 of the petition for review served on the lower judicatory shall contain the case number
178 assigned by the reviewing court. If the lower judicatory has a clerk, the copy of the petition
179 for review shall be deemed served on the lower judicatory by service of a copy of the
180 petition for review on the clerk.

181 5-3-8.

182 (a) The respondent shall file a response to a petition for review with the reviewing court
183 within 30 days after being served with a copy of the petition for review. If a de novo
184 proceeding is required as specified in subsection (b) of Code Section 5-3-5, the response
185 shall include any counterclaim, cross appeal, defense, or third-party claim asserted by the
186 respondent.
187 (b) A cross appeal or counterclaim shall not require a response, unless one is required by
188 order of the court, and shall automatically stand denied.
189 (c) A reply, if any, shall be filed by the petitioner within 30 days after being served with
190 a copy of the respondent's response. If a de novo proceeding is required as provided in

191 subsection (b) of Code Section 5-3-5, the petitioner's reply shall include any counterclaim,
192 cross appeal, defense, or third-party claim asserted by the petitioner.

193 (d) A party may amend a petition for review, response, or reply under this chapter as a
194 matter of course and without leave of the reviewing court at any time before the entry of
195 a pretrial order or before a hearing on the merits is held by the reviewing court, whichever
196 shall first occur. Thereafter, a party may amend a petition for review, response, or reply
197 only by leave of the reviewing court or by written consent of each adverse party. Such
198 leave shall be freely given by the reviewing court if justice so requires.

199 (e) A party shall serve a copy of any pleading filed with the reviewing court on all parties
200 to the proceeding.

201 5-3-9.

202 (a) The reviewing court may issue such orders and writs as may be necessary to aid in its
203 jurisdiction and manage court proceedings under this chapter.

204 (b) The reviewing court shall grant continuances and enter such other orders as may be
205 necessary to permit a just and expeditious review of a petition for review.

206 (c) After a petition for review is filed in the reviewing court, the reviewing court shall:

207 (1) Establish filing deadlines for any necessary documents; and

208 (2) Schedule any necessary proceedings or hearings.

209 (d) If there is more than one party plaintiff or party defendant in the case before the lower
210 judiciary, any one or more of such parties may file a petition for review pursuant to this
211 chapter regardless of whether other parties join in or consent to such petition for review;
212 provided, however, that upon appeal, all parties in the case before the lower judiciary shall
213 be bound by the final decision of the reviewing court; and provided, further, that, if
214 damages are awarded upon such appeal, the damages shall only be recovered against the
215 party appealing and the appealing party's security, if any, and not against a party failing or
216 refusing to appeal.

217 (e) The monetary limitation provided for in paragraph (5) of subsection (a) of Code
218 Section 15-10-2 shall not apply to any decision rendered by the reviewing court under this
219 chapter.

220 5-3-10.

221 (a) Except as otherwise provided by law, service of process under this chapter shall be
222 made in the following manner:

223 (1) A party's attorney or agent authorized to receive service shall be served with any
224 document, unless:

225 (A) Direct service on a party is ordered by the reviewing court; or

226 (B) A specific manner of service is otherwise required by law;

227 (2) Service of any document shall be made in person, by mail, or electronically if consent
228 to electronic service is given as provided in subsection (b) of this Code section;

229 (3) Proof of service shall be shown by:

230 (A) Acknowledgment of the attorney or party served; or

231 (B) A certificate of service from the attorney, party, or other person perfecting service;

232 (4) The certificate of service provided for in this subsection shall:

233 (A) Be attached to the original of the document to be served;

234 (B) Be taken as prima-facie proof of service; and

235 (C) Read substantially as follows: 'I do certify that (number of copies) of the attached
236 document(s) have been furnished to (name of party served) by (delivery, mail, or email)
237 on (date delivered, mailed, or emailed)';

238 (5) Service of any document may be perfected either before or after filing such service
239 with the clerk. If service is made by mail, it shall be deemed perfected on the day it was
240 deposited in the mail. If service is perfected by mail, three days shall be added to any
241 deadline required for a response, to allow for mailing;

242 (6) If the address of any party is unknown and the party is not represented by an attorney
243 of record, service may be perfected on the party by mail directed to the last known
244 address of the party; and

245 (7) Service may be waived or acknowledged either before or after filing.

246 (b) A person may consent to being served with pleadings electronically in a petition for
247 review as provided for in subsection (f) of Code Section 9-11-5.

248 5-3-11.

249 (a) Any party requesting a filing deadline extension from the reviewing court shall do so
250 before the expiration of the existing filing period in effect, whether prescribed or extended.

251 (b) The reviewing court shall only grant one filing deadline extension not to exceed 30
252 days for the filing of a petition for review under subsection (b) of Code Section 5-3-7. The
253 reviewing court may grant such filing deadline extensions for other documents as may be
254 necessary to permit a just and expeditious review of a petition for review.

255 (c) The clerk of the reviewing court shall promptly serve all parties and the clerk of the
256 lower judicatory with a copy of:

257 (1) Any extension granted under this Code section; and

258 (2) The corresponding motion filed to request such extension.

259 5-3-12.

260 (a) Except for a final decision on the merits, a reviewing court shall not dismiss a petition
261 for review unless the reviewing court finds one or more of the following:

262 (1) The petition for review was not filed within the time prescribed or extended;

263 (2) The reviewing court lacks jurisdiction;

264 (3) The question presented by the petitioner is moot;

265 (4) The absence of a justiciable controversy;

266 (5) The failure of a petitioner to prosecute; or

267 (6) The failure of a petitioner to comply with the provisions of this chapter or any court
268 rule or order.

269 (b) The reviewing court shall not immediately dismiss a petition for review because of any
270 defect in the petition for review, bond, or affidavit of indigence, or because of the failure
271 of the lower judicatory to transmit any document.

272 (c) The reviewing court shall give the petitioner a reasonable opportunity to amend a
273 petition for review, bond, or affidavit of indigence for the purpose of curing any defect.
274 The reviewing court may impose such filing deadlines for amendments under this
275 subsection as may be necessary to permit a just and expeditious review of a petition for
276 review.

277 (d) The reviewing court shall not immediately dismiss a petition for review for failure to
278 perfect service on any party if the party obligated to perfect service shows due diligence
279 in attempting to timely perfect service.

280 5-3-13.

281 (a) A petitioner shall file a petition for review in the superior or state court where venue
282 and jurisdiction are proper as prescribed by the laws and the Constitution of this state.

283 (b) Upon a finding by a lower judicatory, a reviewing court, the Court of Appeals, or the
284 Supreme Court that venue is improper or jurisdiction is lacking for any petition for review,
285 the clerk of the applicable court shall promptly transfer a petition for review to a court
286 where venue and jurisdiction are proper in accordance with the rules and procedures
287 applicable to the transferring court.

288 5-3-14.

289 (a) In civil cases and misdemeanor criminal cases, a lower judicatory may require the
290 audio or video recording, reporting, or transcribing of the evidence and proceedings in the
291 lower judicatory on terms prescribed by the lower judicatory.

292 (b) Except as provided in subsection (c) of this Code section, in civil cases where a
293 transcript of the evidence and proceedings in the lower judiciary has not been prepared
294 and a transcript is necessary to conduct a review under this chapter, the petitioner shall
295 prepare a transcript at the petitioner's expense from recollection or otherwise only if the
296 petitioner is financially able to pay the costs of transcribing.

297 (c) In civil cases, a lower judiciary may require the parties to share the cost of reporting
298 or transcribing the evidence and proceedings in the lower judiciary; provided, however,
299 that a lower judiciary shall not require a party to share such costs if that party is
300 financially unable to pay. If the lower judiciary determines that any or all of the parties
301 are financially unable to pay such costs, the lower judiciary, in its discretion, may
302 authorize the trial of the case to go unreported.

303 (d) Any party shall have the right to have any criminal or civil case in a lower judiciary
304 reported or transcribed at the party's own expense.

305 (e) If a proceeding in a lower judiciary is reported, the court reporter shall report and
306 transcribe all:

307 (1) Motions;

308 (2) Colloquies;

309 (3) Objections;

310 (4) Rulings;

311 (5) Evidence, whether admitted or stricken on objection or otherwise;

312 (6) Copies or summaries of all documentary evidence;

313 (7) The charge of the court; and

314 (8) Other proceedings before the court.

315 (f) If a proceeding in a lower judiciary is reported, the lower judiciary shall ensure that
316 all matters listed in subsection (e) of this Code section are included in any transcript or
317 record transferred to the reviewing court.

318 (g) If matters in a lower judicatory are not reported, such as objections to oral argument,
319 misconduct of the jury, or other like instances, and a party requests a transcript of such
320 matters, the lower judicatory shall order a transcript be prepared from recollection or
321 otherwise and included as a part of the record transferred to the reviewing court.

322 (h) A transcript of the proceedings in a lower judicatory shall not be reduced to narrative
323 form unless all parties agree; but if the transcript of the evidence and proceedings is not
324 available and the transcript is prepared from recollection, such a transcript may be prepared
325 in narrative form.

326 (i) If a court reporter transcribes the evidence and proceedings in the lower judicatory, the
327 court reporter shall complete the transcript and file the original and one copy of the
328 transcript with the clerk of the lower judicatory along with the court reporter's certificate
329 attesting to its correctness. Upon filing of the transcript by the court reporter, the transcript
330 shall become part of the record.

331 (j) The clerk of the lower judicatory shall ensure that a true copy of the transcript of the
332 evidence and proceedings in the lower judicatory is included in the record transmitted to
333 the reviewing court under this chapter.

334 (k) If the parties cannot agree regarding whether the transcript or record truly or fully
335 discloses what transpired in the proceedings in the lower judicatory, the lower judicatory
336 shall schedule a hearing with notice to all parties to resolve the dispute and conform the
337 record to the truth.

338 (l) A transcript of evidence and proceedings that is prepared from recollection with an
339 attached statement that all parties agree to its contents shall carry the same authority as a
340 transcript prepared by a court reporter; but if the parties cannot agree regarding the
341 correctness of a transcript prepared from recollection, the lower judicatory shall decide
342 whether it is correct. If the lower judicatory is unable to recall what transpired in the case
343 under review, the lower judicatory shall issue a decision stating that fact. The lower
344 judicatory's decision under this subsection is final and not subject to review.

345 (m) If anything material to any party is omitted from or misstated in the record under
346 review, the parties may stipulate, or the lower judicatory may direct, that the omission or
347 misstatement be corrected before or after the record is transmitted to the reviewing court.
348 The clerk of the lower judicatory shall promptly transmit to the reviewing court any
349 correction of the record made after the record is transmitted to the reviewing court.

350 (n) The lower judicatory may transmit a supplemental record to the reviewing court.

351 (o) The lower judicatory or the reviewing court may order the clerk of the lower judicatory
352 to send up any original documents, exhibits, or other items in the case under review. The
353 reviewing court shall return such original documents, exhibits, or other items to the lower
354 judicatory after the final disposition of the case under review.

355 (p) If a lower judicatory does not allow a party to file a document for inclusion in the
356 record for a petition for review, such party may file the document in the reviewing court
357 with an attached notation of the lower judicatory's disallowance. In such case, the
358 document shall become part of the record under review.

359 (q) If all parties agree, in lieu of a transcript of the evidence and proceedings in the lower
360 judicatory, they may file in the lower judicatory a stipulation of the case showing how the
361 question under review arose and was decided along with a statement of facts. In such
362 cases, the parties shall provide sufficient information in the stipulation and statement of
363 facts to enable the reviewing court to conduct a review. Such stipulation and statement of
364 facts must be approved by the lower judicatory prior to transmission to the reviewing court
365 as part of the record.

366 5-3-15.

367 (a) Upon being served with a copy of the petition for review and unless otherwise ordered
368 by the reviewing court, the clerk of the lower judicatory shall retain the original of the
369 corresponding record and transmit a true copy of the record to the reviewing court

370 within 30 days after the copy of the petition for review is served on the clerk of the lower
371 judiciary.

372 (b) If known or reasonably believed to be the case, the clerk in the lower judiciary shall
373 notify the reviewing court if a petitioner in a criminal case is confined in jail or otherwise
374 incarcerated at the time the record is transmitted from the lower judiciary. Such notice
375 shall accompany the record transmitted from the lower judiciary.

376 (c) If no record is available for transmission to the reviewing court, the clerk of the lower
377 judiciary shall notify the lower judiciary accordingly so that further action may be taken
378 pursuant to this chapter.

379 (d) If the clerk of the lower judiciary does not transmit the record to the reviewing court
380 within 30 days after being served with a copy of the petition for review, the petitioner shall
381 notify the reviewing court, which then shall order the clerk of the lower judiciary to
382 promptly transmit the record or state the reason for the delay.

383 5-3-16.

384 (a) The payment of all costs accrued in a lower judiciary shall not be required in order
385 to file a petition for review under this chapter.

386 (b) Except to the extent prohibited by law, no petition for review shall be heard in a
387 reviewing court unless the petitioner:

388 (1) Pays all unpaid costs owed to the lower judiciary within 30 days after receiving
389 notice of such costs; or

390 (2) Files an affidavit of indigence with the reviewing court stating that the petitioner is
391 unable to pay the costs owed to the lower judiciary because of indigence.

392 (c) No appeal shall be dismissed by a reviewing court because of nonpayment of the costs
393 owed to a lower judiciary unless the petitioner has been ordered by the reviewing court
394 to pay such costs and has failed to comply with such order.

395 (d) An executor, administrator of an estate, or other trustee, when defending an action in
396 such capacity or when solely defending an estate's title, may file a petition for review
397 without paying costs as required by this Code section and without giving a bond and
398 security as provided in Code Section 5-3-17; provided, however, that, if a judgment is
399 obtained against an executor, administrator of an estate, or other trustee and not the assets
400 of the estate, then the executor, administrator of an estate, or other trustee shall pay such
401 costs as required by this Code section and give security if required under Code
402 Section 5-3-17.

403 (e) Unless the petitioner in a civil case files an affidavit of indigence with the reviewing
404 court stating that the petitioner is unable to pay the costs owed to the lower judiciary
405 because of indigence, the petitioner in a civil case shall obtain and file with the reviewing
406 court a certificate of payment of costs from the lower judiciary certifying that the
407 petitioner has paid all costs owed to the lower judiciary. Such certificate shall be:

- 408 (1) Filed in the reviewing court within five days after issuance by the lower judiciary;
409 and
410 (2) Signed by a judge, clerk, official, member, or other designated representative of the
411 lower judiciary.

412 5-3-17.

413 (a) Except to the extent prohibited by law, the filing of a petition for review under this
414 chapter shall act as supersedeas and shall suspend but not vacate a final judgment of a
415 lower judiciary.

416 (b) Except as provided in subsection (c) of this Code section, a supersedeas bond need not
417 be given by a petitioner under this chapter.

418 (c)(1) Except as provided in subsection (d) of Code Section 5-3-16 or otherwise
419 prohibited by law, the reviewing court may require that a supersedeas bond be given with
420 good security while a petition for review is under review.

421 (2) In criminal cases where a bond is required pursuant to paragraph (1) of this
422 subsection, the lower judicatory shall order that the petitioner be released from custody
423 upon the giving of a bond by the petitioner.

424 (d) If a petitioner fails to give a bond when a bond is required, the supersedeas provided
425 for in subsection (a) of this Code section shall cease unless the petitioner files with the
426 reviewing court an affidavit stating that because of indigence the petitioner is unable to
427 give a bond.

428 (e) A bond set pursuant to this chapter shall not exceed the total amount of damages, fines,
429 fees, penalties, and surcharges imposed by the lower judicatory in the case under review.

430 (f) Bonds given pursuant to this chapter are subject to the following requirements:

431 (1) If a person has been convicted of any criminal or quasi-criminal offense or a violation
432 of any ordinance, bond shall be payable to the state unless such conviction is in a
433 municipal court, in which case it shall be payable to the municipality under which such
434 court exists. This paragraph shall not apply to constitutional city courts or state courts;

435 (2) In civil cases, the petitioner shall make a bond payable to the respondent;

436 (3) The petitioner must agree under oath to personally appear and abide by the final
437 judgment, decision, order, or sentence in the case;

438 (4) If a secured bond is required, the person providing security shall swear under oath
439 that he or she can fulfill the bond obligation; and

440 (5) The giving of a bond shall be consistent with the Constitution of the United States
441 and the laws and the Constitution of this state, including, but not limited to,
442 Code Section 17-6-1.

443 (g) A bond may be forfeited in the same manner as any other bond in any court having
444 jurisdiction, except that a bond payable to a municipality may be forfeited as prescribed in
445 a municipal ordinance of such municipality.

446 (h) A supersedeas provided for in this Code section shall suspend the final judgment of the
447 lower judicatory until the petition for review is decided or dismissed by the reviewing court

448 or by an appellate court upon appeal, provided that the petitioner applies for and procures
449 the necessary writs for reviewing the decision complained of within the time prescribed.

450 (i) If a petition for review is filed by a petitioner's attorney, the petitioner's attorney shall
451 be authorized to sign the name of the petitioner to the supersedeas bond. In such cases, the
452 petitioner shall be bound by the supersedeas bond as though the petitioner had personally
453 signed it.

454 (j) An action may be brought on the bond given under this chapter in any court having
455 jurisdiction.

456 (k) A valid bond may replace or be amended to replace a void bond or no bond at all at any
457 time under this Code section.

458 (l) A petitioner's surety, if any, shall be bound by the judgment in a petition for review.
459 A surety compelled to pay off a debt or damages for which judgment is entered under this
460 chapter shall only have recourse against the surety's principal.

461 (m) When several partners or joint contractors bring or defend a claim, any one of the
462 partners or joint contractors may file a petition for review in the name of the firm or joint
463 contractors and sign the name of the firm or joint contractors to a bond if a bond is required
464 by the reviewing court. Such petition for review and bond shall be binding on the firm and
465 the joint contractors as though they had signed it themselves.

466 5-3-18.

467 (a)(1) After a petition for review is reviewed under this chapter, the reviewing court shall
468 render a final decision:

469 (A) Entering a judgment upon the petition for review;

470 (B) Ordering dismissal of the petition for review;

471 (C) Remanding a petition for review back to the lower judicatory with instructions; or

472 (D) A combination thereof.

473 (2) If the final decision rendered pursuant to this Code section is a judgment upon the
474 petition for review, it shall be in writing and specify whether the reviewing court is
475 affirming, reversing, or vacating the final judgment of the lower judicatory.

476 (3) If the final decision rendered pursuant to this Code section remands the petition for
477 review back to the lower judicatory, it shall provide instructions to the lower judicatory
478 for further proceedings.

479 (b) The clerk of the reviewing court shall serve a copy of the reviewing court's final
480 decision regarding a petition for review on the clerk of the lower judicatory and on all
481 parties named in the petition for review within five days after the date such decision was
482 rendered. The clerk of the lower judicatory shall promptly notify each judge, official, or
483 member of the lower judicatory who rendered the final judgment appealed of any final
484 decision served on the clerk of the lower judicatory. If the lower judicatory does not have
485 a clerk, then the clerk of the reviewing court shall serve a copy of the reviewing court's
486 final decision on each judge, official, or member of the lower judicatory who rendered the
487 final judgment appealed.

488 (c) A final decision by the reviewing court under this chapter may be appealed to the
489 appropriate appellate court as prescribed by law.

490 5-3-19.

491 (a) If a petition for review is dismissed or withdrawn pursuant to this chapter, the rights
492 of all parties shall be the same as if no appeal had been filed. Notwithstanding any other
493 provision of law, the dismissal or withdrawal of a petition for review under this chapter
494 shall:

495 (1) Dismiss the petition for review;

496 (2) Not dismiss the petitioner's underlying case from the lower judicatory or vacate the
497 final judgment of the lower judicatory; and

498 (3) Reinstate the final judgment of the lower judicatory as if the petition for review had
499 not been filed.

500 (b) This Code section shall apply to all cases appealed under this chapter regardless of the
501 standard of review applied under Code Section 5-3-5.

502 5-3-20.

503 (a) Reasonable and necessary attorney's fees and expenses of litigation may be assessed
504 for frivolous actions and defenses in a petition for review as provided in Code
505 Section 9-15-14, except that such award shall not exceed 20 percent of the principal sum
506 that the jury or the reviewing court otherwise finds due to the party receiving such award.

507 (b) This Code section shall apply only to civil cases where a petition for review results in
508 a judgment for a sum of money.

509 5-3-21.

510 (a) If a petition for review is sustained and a final decision regarding the case is made by
511 the reviewing court, the petitioner may have judgment entered for the sum recovered by
512 the petitioner in the lower judicatory, the costs paid to obtain the petition for review, and
513 the costs in the reviewing court.

514 (b) If a petition for review is returned to the lower judicatory for a new hearing, the
515 petitioner shall have judgment entered for the costs in the reviewing court only, leaving the
516 costs paid to obtain the petition for review to be awarded upon the final judgment of the
517 lower judicatory after the new hearing.

518 (c) If a petition for review is dismissed and a final decision regarding the case is made by
519 the reviewing court, the respondent in a petition for review may have judgment entered in
520 the reviewing court against the petitioner and the petitioner's security for the sum recovered
521 by the respondent, together with the costs in the reviewing court.

522 (d) If a petition for review is returned to the lower judiciary and the lower judiciary
523 decides the case in favor of the respondent, then the security on the petition for review
524 bond shall be included in the lower judiciary's final judgment."

525 **SECTION 1-2.**

526 Said title is further amended by repealing in its entirety Chapter 4, relating to certiorari to
527 superior court, and designating said chapter as reserved.

528 **PART II.**

529 **SECTION 2-1.**

530 Code Section 3-2-35 of the Official Code of Georgia Annotated, relating to seizure of
531 contraband by commissioner and agents regarding alcoholic beverages, proceedings upon
532 seizure, hearing on entitlement to seized items, appeals, and disposition of items upon which
533 taxes have been paid, is amended by revising subsection (e) as follows:

534 "(e) An appeal from the commissioner's order may be taken to the Superior Court of Fulton
535 County by filing with the commissioner, within 15 days from the date of the decision, a
536 ~~notice of appeal to~~ copy of the petition for review filed in the Superior Court of Fulton
537 County. The proceedings on the petition for review shall be governed by Chapter 3 of
538 Title 5 except as provided otherwise in this Code section. The appeal shall be based upon
539 the record made before the commissioner, ~~and the commissioner, upon the filing of a~~
540 ~~notice of appeal;~~ The commissioner shall transmit the record and appropriate documents
541 to the superior court within 30 days ~~from~~ after the date of the filing of notice of appeal the
542 petition for review is received. The superior court shall review the record for errors of law,
543 violation of constitutional or statutory provisions, violation of the statutory authority of the
544 agency, lawfulness of the procedure, lack of any evidence to support the decision, and

545 arbitrariness and abuse of discretion. However, the court shall not substitute its judgment
546 for that of the hearing officer as to the weight of evidence on questions of fact."

547 **SECTION 2-2.**

548 Code Section 4-8-23 of the Official Code of Georgia Annotated, relating to investigations
549 by dog control officer, notice to owner, hearings, determinations by hearing authority, and
550 judicial review, is amended by revising subsection (f) as follows:

551 "(f) Judicial review of the authority's final decision may be had in accordance with Code
552 Section 15-9-30.9. Judicial review of a probate court's final decision shall be in
553 accordance with Code Section ~~5-3-2~~ 5-3-4 and costs shall be paid as provided in Code
554 Section ~~5-3-22~~ 5-3-16."

555 **SECTION 2-3.**

556 Code Section 10-1-787 of the Official Code of Georgia Annotated, relating to finality of
557 arbitrator's decision under the 'Georgia Lemon Law,' appeals by manufacturers, and time for
558 compliance with arbitrator's decision, is amended by revising subsection (a) as follows:

559 "(a) The decision of the arbitrator or arbitrators is final unless a party to the arbitration,
560 within 30 days of entry of the decision, appeals the decision to the superior court. A party
561 who appeals a decision shall follow the procedures set forth in ~~Article 2~~ of Chapter 3 of
562 Title 5, and any appeal shall be de novo; however, the decision of the arbitrator or
563 arbitrators shall be admissible in evidence."

564 **SECTION 2-4.**

565 Code Section 10-14-22 of the Official Code of Georgia Annotated, relating to judicial appeal
566 of order of Secretary of State regarding cemetery and funeral services, is amended by
567 revising subsections (a) and (b) as follows:

568 "(a)(1) An appeal may be taken from any order of the Secretary of State resulting from
 569 a hearing held in accordance with the provisions of Code Section 10-14-23 by any person
 570 adversely affected thereby to the Superior Court of Fulton County, Georgia, by serving
 571 on the Secretary of State, within 20 days after the date of entry of such order, a ~~written~~
 572 ~~notice of appeal~~ copy of the petition for review filed in the Superior Court of Fulton
 573 County and signed by the petitioner, signed by the appellant, stating:

- 574 (1)(A) The order from which the appeal is taken;
 575 (2)(B) The ground upon which a reversal or modification of such order is sought; and
 576 (3)(C) A demand for a certified transcript of the record of such order.

577 (2) The proceedings on the petition for review shall be governed by Chapter 3 of Title 5
 578 except as provided in this Code section.

579 (b) Upon receipt of such ~~notice of appeal~~ petition for review, the Secretary of State shall,
 580 within ten days thereafter, make, certify, and deliver to the ~~appellant~~ clerk of the Superior
 581 Court of Fulton County a transcript of the record of the order from which the appeal is
 582 taken, provided that the ~~appellant~~ petitioner shall pay the reasonable costs of such
 583 transcript. ~~The appellant shall, within five days after receipt of such transcript, file such~~
 584 ~~transcript and a copy of the notice of appeal with the clerk of the court.~~ Said notice of
 585 ~~appeal~~ petition for review and transcript of the record shall constitute ~~appellant's~~
 586 petitioner's complaint. Said complaint shall thereupon be entered on the trial calendar of
 587 the court in accordance with the court's normal procedures."

588 **SECTION 2-5.**

589 Code Section 12-3-194.1 of the Official Code of Georgia Annotated, relating to police and
 590 legislative powers of the Stone Mountain Memorial Association, appointment of peace
 591 officers, jurisdiction and venue of park offenses, and sale of confederate memorabilia, is
 592 amended by revising subsection (c) as follows:

593 "(c) For purposes of this Code section, the Magistrate Court of DeKalb County shall have
594 jurisdiction and authority to hear and try those offenses occurring within the limits of Stone
595 Mountain Park which violate the ordinances of the association and to punish violations of
596 such ordinances, all in the manner and to the extent prescribed in Article 4 of Chapter 10
597 of Title 15. The State Court of DeKalb County shall have jurisdiction and authority to hear
598 and try all cases removed from the Magistrate Court of DeKalb County for jury trial by any
599 defendant charged with one or more violations of the ordinances of the association. The
600 Superior Court of DeKalb County shall have jurisdiction to review all convictions by
601 certiorari petition for review to the superior court. The proceedings on such petitions for
602 review shall be governed by Chapter 3 of Title 5. The jurisdiction and authority of the
603 courts of DeKalb County provided for in this Code section shall be in addition to and not
604 in limitation of the jurisdiction and authority of such courts as may be now or hereafter
605 provided."

606 SECTION 2-6.

607 Code Section 12-3-236.1 of the Official Code of Georgia Annotated, relating to adoption and
608 enforcement of ordinances and resolutions of the Jekyll Island State Park Authority, is
609 amended by revising subsection (b) as follows:

610 "(b) For purposes of this Code section, the Magistrate Court of Glynn County shall have
611 jurisdiction and authority to hear and try those cases occurring within the limits of Jekyll
612 Island in which a person is charged with violating an ordinance of the authority and to
613 punish violations of such ordinances, all in the manner and to the extent prescribed in
614 Article 4 of Chapter 10 of Title 15. The State Court of Glynn County shall have
615 jurisdiction and authority to hear and try all cases removed from the Magistrate Court of
616 Glynn County for jury trial by any defendant charged with one or more violations of the
617 ordinances of the authority. The Superior Court of Glynn County shall have jurisdiction
618 to review all convictions by certiorari petition for review to the superior court. The

619 proceedings on such petitions for review shall be governed by Chapter 3 of Title 5. The
 620 jurisdiction and authority of the courts of Glynn County provided for in this Code section
 621 shall be in addition to and not in limitation of the jurisdiction and authority of such courts
 622 as may be now or hereafter provided."

623 **SECTION 2-7.**

624 Code Section 15-6-9 of the Official Code of Georgia Annotated, relating to authority of
 625 superior court judges generally, is amended by revising paragraph (1) as follows:

626 "(1) To grant for their respective circuits writs of ~~certiorari~~, supersedeas, quo warranto,
 627 mandamus, habeas corpus, and bail in actions ex delicto;"

628 **SECTION 2-8.**

629 Code Section 15-9-120 of the Official Code of Georgia Annotated, relating to definitions
 630 regarding probate court jury trials and appeals, is amended by revising paragraph (1) as
 631 follows:

632 "(1) 'Civil case' means those civil matters:

- 633 (A) Over which the judge of the probate court exercises judicial powers;
- 634 (B) Within the original, exclusive, or general subject matter jurisdiction of the
 635 probate court; and
- 636 (C) Which, if not for this article and Code Section 5-6-33, could be appealed to
 637 superior court for a de novo investigation with the right to a jury trial under Code
 638 Sections ~~5-3-2~~ 5-3-4 and ~~5-3-29~~ 5-3-5."

639 **SECTION 2-9.**

640 Code Section 15-10-41 of the Official Code of Georgia Annotated, relating to no jury trials
 641 in magistrate courts and appeal from magistrate courts, is amended by revising subsection (b)
 642 as follows:

643 "(b)(1) Except as otherwise provided in this subsection, appeals may be had from
644 judgments returned in the magistrate court to the state court of the county or to the
645 superior court of the county and the same provisions now provided for by general law for
646 appeals contained in ~~Article 2~~ of Chapter 3 of Title 5 shall be applicable to appeals from
647 the magistrate court, the same to be a de novo appeal. The provisions of ~~said Article 2~~
648 of Chapter 3 of Title 5 shall also apply to appeals to state court.

649 (2) No appeal shall lie from a default judgment or from a dismissal for want of
650 prosecution after a nonappearance of a plaintiff for trial. Any voluntary dismissal by the
651 plaintiff or by order of the court for want of prosecution shall be without prejudice except
652 that the filing of a second such dismissal shall operate as an adjudication upon the merits.
653 Review, including review of a denial of a postjudgment motion to vacate a judgment,
654 shall be by certiorari petition for review to the state court of that county or to the superior
655 court of that county."

656 SECTION 2-10.

657 Article 4 of Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to
658 violation of ordinances of counties and state authorities, is amended by revising Code
659 Section 15-10-65, relating to certiorari to superior court from magistrate court, as follows:

660 "15-10-65.

661 Review of convictions shall be by certiorari petition for review to the superior court."

662 SECTION 2-11.

663 Code Section 15-14-7 of the Official Code of Georgia Annotated, relating to destruction of
664 court reporter notes, how authorized, petition, grounds, notice, and order, is amended by
665 revising subsection (c) as follows:

666 "(c) The petition shall certify one of the following:

667 (1) That the action is a civil action in which no ~~notice of appeal~~ petition for review has
668 been filed, that the court reporter has not been requested or ordered to transcribe the
669 evidence and other proceedings, and that a period of not less than 37 months has elapsed
670 since the last date upon which a ~~notice of appeal~~ petition for review in the action could
671 have been filed; or

672 (2) That the action is one in which the court reporter has been requested or ordered
673 pursuant to law to transcribe the evidence and other proceedings, that the record has been
674 transcribed, and that a period of not less than 12 months has elapsed from the date upon
675 which the remittitur from the appeal has been docketed in the trial court."

676

SECTION 2-12.

677 Code Section 15-21A-6 of the Official Code of Georgia Annotated, relating to additional
678 filing fees, application fee for indigent defense services, and remittance of funds, is amended
679 by revising subsection (a) as follows:

680 "(a) In addition to all other legal costs, there shall be charged to the filing party and
681 collected by the clerk an additional filing fee of \$15.00 in each civil action or case filed in
682 the superior, state, recorder's, mayor's, and magistrate courts except that municipalities,
683 counties, and political subdivisions shall be exempt from such fee. Without limiting the
684 generality of the foregoing, such fee shall apply to all adoptions, ~~certiorari~~ petitions for
685 review, trade name registrations, applications for change of name, and all other proceedings
686 of a civil nature. Any matter which is docketed upon the official dockets of the enumerated
687 courts and to which a number is assigned shall be subject to such fee, whether such matter
688 is contested or not."

689

SECTION 2-13.

690 Code Section 15-21A-6.1 of the Official Code of Georgia Annotated, relating to judicial
691 operations fund fee and collection and reporting procedure, is amended by revising
692 subsection (a) as follows:

693 "(a) In addition to all other legal costs, there shall be charged to the filing party and
694 collected by the clerk an additional filing fee of \$125.00, to be known as a judicial
695 operations fund fee, in each civil action or case filed in a superior court except that the
696 state, including, but not limited to, its departments, agencies, boards, bureaus,
697 commissions, public corporations, and authorities, municipalities, counties, and political
698 subdivisions shall be exempt from such fee. Without limiting the generality of the
699 foregoing, such fee shall apply to all adoptions, ~~certiorari~~ petitions for review, trade name
700 registrations, applications for change of name, and all other proceedings of a civil nature.
701 Any matter which is docketed upon the official dockets of the superior court and to which
702 a number is assigned shall be subject to such fee, whether such matter is contested or not;
703 provided, however, that the judicial operations fund fee shall not apply to the issuance of
704 certificates of appointment and reappointment of notaries public."

705

SECTION 2-14.

706 Code Section 17-6-1 of the Official Code of Georgia Annotated, relating to when offenses
707 bailable, procedure, schedule of bails, and appeal bonds, is amended by revising
708 subsection (g) as follows:

709 "(g) No appeal bond shall be granted to any person who has been convicted of murder,
710 rape, aggravated sodomy, armed robbery, home invasion in any degree, aggravated child
711 molestation, child molestation, kidnapping, trafficking in cocaine or marijuana, aggravated
712 stalking, or aircraft hijacking and who has been sentenced to serve a period of incarceration
713 of five years or more. The granting of an appeal bond to a person who has been convicted
714 of any other felony offense or of any misdemeanor offense involving an act of family

715 violence as defined in Code Section 19-13-1, or of any offense delineated as a high and
 716 aggravated misdemeanor or of any offense set forth in Code Section 40-6-391, shall be in
 717 the discretion of the convicting court. Appeal bonds shall terminate when the right of
 718 appeal terminates, and such bonds shall not be effective as to any petition for review or
 719 petition or application for writ of certiorari unless the court in which the petition for review
 720 or petition or application is filed so specifies."

721 **SECTION 2-15.**

722 Part 2 of Article 2 of Chapter 3 of Title 22 of the Official Code of Georgia Annotated,
 723 relating to acquisition of right to flood roads and highways under eminent domain, is
 724 amended by revising Code Section 22-3-44, relating to appeal to superior court, as follows:

725 "22-3-44.

726 Within 30 days after the award of condemnation is made pursuant to Part 4 of Article 1 of
 727 Chapter 2 of this title or pursuant to Article 2 of Chapter 2 of this title, any party may
 728 appeal to the superior court of the county in which the public roads or highways lie by
 729 filing a petition for review with ~~the judge of the probate court of the county~~ a written notice
 730 of appeal. ~~Within ten days after his receipt of the notice, the judge shall transmit the notice~~
 731 ~~to~~ the superior court. The trial on such an appeal shall be de novo. The proceedings on the
 732 petition for review shall be governed by Chapter 3 of Title 5."

733 **SECTION 2-16.**

734 Code Section 31-6-44.1 of the Official Code of Georgia Annotated, relating to judicial
 735 review regarding the certificate of need program under state health planning and
 736 development, is amended by revising subsection (b) as follows:

737 "(b) In the event a party seeks judicial review, the proceedings for such review shall be
 738 governed by Chapter 3 of Title 5 except as provided otherwise in this Code section. If a
 739 party seeks judicial review, the department shall, within 30 days ~~of the filing of the notice~~

740 ~~of appeal with~~ after being served with a copy of the petition for review filed in the superior
741 court, transmit certified copies of all documents and papers in its file together with a
742 transcript of the testimony taken and its findings of fact and decision to the clerk of the
743 superior court to which the case has been appealed. The case so appealed may then be
744 brought by either party upon ten days' written notice to the other before the superior court
745 for a hearing upon such record, subject to an assignment of the case for hearing by the
746 court; provided, however, that, if the court does not hear the case within 120 days of the
747 date of docketing in the superior court, the decision of the department shall be considered
748 affirmed by operation of law unless a hearing originally scheduled to be heard within the
749 120 days has been continued to a date certain by order of the court. In the event a hearing
750 is held later than 90 days after the date of docketing in the superior court because same has
751 been continued to a date certain by order of the court, the decision of the department shall
752 be considered affirmed by operation of law if no order of the court disposing of the issues
753 on appeal has been entered within 30 days after the date of the continued hearing. If a case
754 is heard within 120 days from the date of docketing in the superior court, the decision of
755 the department shall be considered affirmed by operation of law if no order of the court
756 ~~dispositive~~ disposing of the issues on appeal has been entered within 30 days of the date
757 of the hearing."

758 **SECTION 2-17.**

759 Article 1 of Chapter 3 of Title 32 of the Official Code of Georgia Annotated, relating to
760 general provisions regarding acquisition of property for transportation purposes, is amended
761 in Code Section 32-3-11, relating to power of judge to set aside, vacate, and annul
762 declaration of taking, issuance and service on condemnor of rule nisi, and hearing, by
763 revising subsection (c) as follows:

764 "(c) If the condemnee desires to raise such questions as are outlined in subsection (b) of
765 this Code section, the same shall be done by proper pleadings, in the form of a petition for

766 review addressed to the judge of the superior court having jurisdiction thereof, filed in the
767 same proceedings not later than 30 days subsequent to the date of service upon the
768 condemnee of the declaration of taking. The presiding judge shall thereupon cause a rule
769 nisi to be issued and served upon the condemnor, requiring him or her to show cause at a
770 time and place designated by the judge why the title acquired by the declaration of taking
771 should not be vacated and set aside in the same way and manner as is now provided for
772 setting aside deeds acquired by fraud. Such hearing shall be had not earlier than 15 days
773 from the time of service of the rule nisi upon the condemnor, nor later than 60 days from
774 the date of filing of the declaration of taking, and with the right of appeal by either party,
775 as in other cases. A petition for review filed pursuant to this subsection shall be governed
776 by the provisions of Chapter 3 of Title 5, except to the extent any such provision is in
777 conflict with any provision of this article."

778 **SECTION 2-18.**

779 Said article is further amended by revising Code Section 32-3-14, relating to filing a notice
780 of appeal, as follows:

781 "32-3-14.

782 If the owner, or any of the owners, or any person having a claim against or interest in the
783 property is dissatisfied with the amount of compensation as estimated in the declaration of
784 taking and deposited in court, as provided for in Code Section 32-3-7, such person or
785 persons, or any of them, shall have the right, at any time subsequent to the filing of the
786 declaration and the deposit of the fund into court, but not later than 30 days following the
787 date of the service as provided for in Code Sections 32-3-8 and 32-3-9, to file with the
788 court a ~~notice of appeal~~ petition for review, the same to be in writing and made a part of
789 the record in the proceedings."

790 **SECTION 2-19.**

791 Said article is further amended in Code Section 32-3-16, relating to appeal to jury, evidence
792 to be heard on appeal, and subsequent review of issues not brought before jury, by revising
793 subsections (a) and (c) as follows:

794 "(a) After the ~~notice of appeal~~ petition for review has been filed as provided in Code
795 Section 32-3-14, it shall be the duty of the court at the next term thereof, which shall
796 convene not earlier than 30 days subsequent to the date of service, as provided for in Code
797 Sections 32-3-8 and 32-3-9, to cause an issue to be made and tried by a jury as to the value
798 of the property or interest taken and the consequential damages to property or interests not
799 taken, with the same right to move for a new trial and file a ~~notice of appeal~~ petition for
800 review as in other cases at law, provided that an interlocutory award has not become final
801 pursuant to Code Section 32-3-15."

802 "(c) If, for any reason, the issues made by the filing of the ~~notice of appeal~~ petition for
803 review provided for in this Code section are not tried by a jury as to the value of the
804 property or interest taken and the consequential damages to the property or interests not
805 taken, at the next term of the court after the filing of such appeal, such fact shall not be
806 cause for dismissal of the appeal and the issues made by such appeal shall be subject to trial
807 at any future term of the court."

808 **SECTION 2-20.**

809 Said article is further amended by revising Code Section 32-3-17.1, relating to decisions
810 upon questions of law, power of judge to give necessary orders and directions, and jury trial
811 in open court only, as follows:

812 "32-3-17.1.

813 All questions of law arising upon the pleadings or in any other way arising from the cause,
814 subsequent to the filing of the declaration of taking and the deposit of the fund, and
815 subsequent to the filing of ~~notice of appeal~~ a petition for review, if any, shall be passed on

816 by the presiding judge who may, from time to time, make such orders and give such
817 directions as are necessary to speed the cause, and as may be consistent with justice and
818 due process of law; but no jury trial shall be had except in open court."

819 **SECTION 2-21.**

820 Code Section 33-2-27 of the Official Code of Georgia Annotated, relating to pleading and
821 procedure of judicial review and powers of a reviewing court generally, is amended by
822 revising subsections (a) and (c) as follows:

823 "(a) The form of proceeding for judicial review shall be by a petition for review in the
824 Superior Court of Fulton County, a copy of which shall be served upon the Commissioner
825 immediately. The proceedings on the petition for review shall be governed by the
826 provisions of Chapter 3 of Title 5, except to the extent any such provision is in conflict
827 with any provision of this title."

828 "(c) The petition for review or other pleading in which judicial review shall be sought shall
829 plainly specify the action complained of and shall set forth the relief sought and, without
830 excessive detail, the facts and circumstances supporting the petitioner's right to such relief."

831 **SECTION 2-22.**

832 Code Section 33-6-8 of the Official Code of Georgia Annotated, relating to issuance of cease
833 and desist orders, issuance of orders providing for other relief, change in orders, and date on
834 which orders appealable, is amended by revising subsection (b) as follows:

835 "(b) The Commissioner may, at any time before the serving of ~~notice of appeal~~ a copy of
836 the petition for review filed in the Superior Court of Fulton County upon him or her, as
837 provided for in Code Section 33-6-11, or after the expiration of the time allowed by law
838 for the serving of the ~~notice~~ petition for review, if no ~~notice~~ petition for review has been
839 thus served, amend or set aside in whole or in part any order issued by ~~him~~ the
840 Commissioner under this Code section whenever in ~~his~~ the Commissioner's opinion the

841 facts and circumstances surrounding the case have so changed as to require the action or
 842 if the public interest shall so require. No change of an order in a manner unfavorable to the
 843 person charged or to the parties at interest shall be made except after notice and opportunity
 844 for hearing. The date of the Commissioner's last order shall be the point of time from
 845 which it may be reviewed by appeal."

846 **SECTION 2-23.**

847 Code Section 34-9-105 of the Official Code of Georgia Annotated, relating to when workers'
 848 compensation award deemed final, appeal to superior court, grounds for setting aside
 849 decisions, and appeal to Court of Appeals, is amended by revising subsection (b) as follows:
 850 "(b) Either party to the dispute may, within 20 days from the date of any such final award
 851 or within 20 days from the date of any other final order or judgment of the members of the
 852 board, but not thereafter, appeal from the decision in such final award or from any other
 853 final decision of the board to the superior court of the county in which the injury occurred
 854 or, if the injury occurred outside the state, to the superior court of the county in which the
 855 original hearing was held, in the manner and upon the grounds provided in Chapter 3 of
 856 Title 5, except to the extent any such provision is in conflict with any provision of this
 857 Code section. ~~Said appeal~~ A copy of the petition for review shall be ~~filed with~~ served on
 858 the clerk for the board in writing stating generally the grounds upon which such appeal is
 859 sought. In the event of an appeal, the board shall, within 30 days of the filing such service
 860 of the notice of appeal with the board, transmit certified copies of all documents and papers
 861 in its file together with a transcript of the testimony taken and its findings of fact and
 862 decision to the clerk of the superior court to which the case is appealable, as provided in
 863 this subsection. The case so appealed may then be brought by either party upon ten days'
 864 written notice to the other before the superior court for a hearing upon such record, subject
 865 to an assignment of the case for hearing by the court; provided, however, that, if the court
 866 does not hear the case within 60 days of the date of docketing in the superior court, the

867 decision of the board shall be considered affirmed by operation of law unless a hearing
868 originally scheduled to be heard within the 60 days has been continued to a date certain by
869 order of the court. In the event a hearing is held later than 60 days after the date of
870 docketing in the superior court because same has been continued to a date certain by order
871 of the court, the decision of the board shall be considered affirmed by operation of law if
872 no order of the court disposing of the issues on appeal has been entered within 20 days after
873 the date of the continued hearing. If a case is heard within 60 days from the date of
874 docketing in the superior court, the decision of the board shall be considered affirmed by
875 operation of law if no order of the court ~~dispositive~~ disposing of the issues on appeal has
876 been entered within 20 days of the date of the hearing."

877 **SECTION 2-24.**

878 Code Section 36-15-9 of the Official Code of Georgia Annotated, relating to collection of
879 additional costs in county court cases, amount, determination of need as prerequisite to
880 collection, and collection in certain criminal cases, is amended by revising subsection (a) as
881 follows:

882 "(a) For the purpose of providing funds for those uses specified in Code Section 36-15-7,
883 a sum not to exceed \$5.00, in addition to all other legal costs, may be charged and collected
884 in each action or case, either civil or criminal, including, without limiting the generality of
885 the foregoing, all adoptions, ~~certiorari~~ petitions for review, applications by personal
886 representatives for leave to sell or reinvest, trade name registrations, applications for
887 change of name, and all other proceedings of civil or criminal or quasi-criminal nature,
888 filed in the superior, state, probate, and any other courts of record, except county recorders'
889 courts or municipal courts. The amount of such additional costs to be charged and
890 collected, if any, in each such case shall be fixed by the chief judge of the superior court
891 of the circuit in which such county is located. Such additional costs shall not be charged
892 and collected unless the chief judge first determines that a need exists for a law library in

893 the county. The clerk of each and every such court in such counties in which such a law
 894 library is established shall collect such fees and remit the same to the treasurer of the board
 895 of trustees of the county law library of the county in which the case was brought, on the
 896 first day of each month. Where fees collected by the treasurer have been allocated for the
 897 purpose of establishing or maintaining the codification of county ordinances, the allocated
 898 amount shall in turn be remitted by the treasurer to the county governing authority for said
 899 purpose on a monthly basis or as otherwise agreed by the treasurer and the county
 900 governing authority. The county ordinance code provided for in subsection (a) of Code
 901 Section 36-15-7 shall be maintained by the county governing authority. When the costs
 902 in criminal cases are not collected, the cost provided in this Code section shall be paid from
 903 the fine and bond forfeiture fund of the court in which the case is filed, before any other
 904 disbursement or distribution of such fines or forfeitures is made."

905 **SECTION 2-25.**

906 Code Section 36-32-2.1 of the Official Code of Georgia Annotated, relating to removal of
 907 municipal judges, is amended by revising subsection (e) as follows:

908 "(e) Removal proceedings shall consist of an open and public hearing held by the
 909 governing authority of the municipal corporation, provided that the judge against whom
 910 such charges have been brought shall be furnished a copy of the charges at least ten days
 911 prior to the hearing. At the conclusion of the hearing, the governing authority of the
 912 municipal corporation shall determine whether or not to remove the judge from office. The
 913 governing authority of the municipal corporation may adopt rules governing the procedures
 914 at such hearings, provided that such hearings comport with due process. The right of
 915 ~~certiorari from the~~ to appeal a decision to remove a judge from office shall exist, ~~and such~~
 916 ~~certiorari shall be obtained under the sanction of a judge of the~~ The decision to remove a
 917 judge from office pursuant to this Code section shall be appealed by filing a petition for

918 review in the superior court of the circuit in which the governing authority of the municipal
 919 corporation is situated. Such appeals shall be governed by Chapter 3 of Title 5."

920 **SECTION 2-26.**

921 Article 3 of Chapter 74 of Title 36 of the Official Code of Georgia Annotated, relating to
 922 county and municipal enforcement boards created prior to January 1, 2003, is amended by
 923 revising Code Section 36-74-48, relating to appeals to superior court, as follows:

924 "36-74-48.

925 An aggrieved party, including the local governing body, may appeal a final administrative
 926 order of an enforcement board to the superior court of the county in which the subject
 927 property is located. Such an appeal shall be in the form of a writ of certiorari petition for
 928 review governed by Chapter ~~4~~ 3 of Title 5 and shall be heard on the record. ~~An appeal A~~
 929 petition for review shall be filed within 30 days of the execution of the order to be
 930 appealed."

931 **SECTION 2-27.**

932 Chapter 3 of Title 37 of the Official Code of Georgia Annotated, relating to examination,
 933 treatment, etc., for mental illness, is amended by revising Code Section 37-3-150, relating
 934 to right to appeal orders of probate court, juvenile court, or hearing examiner, payment of
 935 costs of appeal, right to subsequent appeal, and right to legal counsel on appeal, as follows:

936 "37-3-150.

937 The patient, the patient's representatives, or the patient's attorney may appeal any order of
 938 the probate court or hearing officer rendered in a proceeding under this chapter to the
 939 superior court of the county in which the proceeding was held, except as otherwise
 940 provided in Article 6 of Chapter 9 of Title 15, and may appeal any order of the juvenile
 941 court rendered in a proceeding under this chapter to the Court of Appeals or the Supreme
 942 Court. The appeal to the superior court shall be made in the same manner as appeals from

943 the probate court to the superior court, except that the appeal shall be heard before the court
 944 sitting without a jury as soon as practicable but not later than 30 days following the date
 945 on which the appeal is filed with the clerk of the superior court. The appeal from the order
 946 of the juvenile court to the Court of Appeals or the Supreme Court shall be as provided by
 947 law but shall be heard as expeditiously as possible. The patient must pay all costs upon
 948 filing any appeal authorized under this Code section or must make an affidavit that he or
 949 she is unable to pay costs. The patient shall retain all rights of review of any order of the
 950 superior court, the Court of Appeals, or the Supreme Court, as provided by law. The
 951 patient shall have a right to counsel or, if unable to afford counsel, shall have counsel
 952 appointed for the patient by the court. The appeal rights provided to the patient, the
 953 patient's representatives, or the patient's attorney in this Code section are in addition to any
 954 other appeal rights which the parties may have, and the provision of the right for the
 955 patient, the patient's representatives, or the patient's attorney to appeal does not deny the
 956 right to the Department of Behavioral Health and Developmental Disabilities to appeal
 957 under the general appeal provisions of Code Sections ~~5-3-2 and 5-3-3~~ Section 5-3-4."

958 **SECTION 2-28.**

959 Chapter 4 of Title 37 of the Official Code of Georgia Annotated, relating to habilitation of
 960 the developmentally disabled generally, is amended by revising Code Section 37-4-110,
 961 relating to appeal rights of clients, their representatives, or attorneys, payment of costs of
 962 appeal, right of client to subsequent appeal and to legal counsel on appeal, as follows:

963 "37-4-110.

964 The client, the client's representatives, or the client's attorney may appeal any order of the
 965 probate court or administrative law judge rendered in a proceeding under this chapter to the
 966 superior court of the county in which the proceeding was held, except as otherwise
 967 provided in Article 6 of Chapter 9 of Title 15, and may appeal any order of the juvenile
 968 court rendered in a proceeding under this chapter to the Court of Appeals or the Supreme

969 Court. The appeal to the superior court shall be made in the same manner as appeals from
970 the probate court to the superior court, except that the appeal shall be heard before the court
971 sitting without a jury as soon as practicable but not later than 30 days following the date
972 on which the appeal is filed with the clerk of the superior court. The appeal from the order
973 of the juvenile court to the Court of Appeals or the Supreme Court shall be as provided by
974 law but shall be heard as expeditiously as possible. The client must pay all costs upon
975 filing any appeal authorized under this Code section or must make an affidavit that he or
976 she is unable to pay costs. The client shall retain all rights of review of any order of the
977 superior court, the Court of Appeals, or the Supreme Court as provided by law. The client
978 shall have a right to counsel or, if unable to afford counsel, shall have counsel appointed
979 for the client by the court. The appeal rights provided to the client, the client's
980 representatives, or the client's attorney in this Code section are in addition to any other
981 appeal rights which the parties may have, and the provision of the right for the client, the
982 client's representatives, or the client's attorney to appeal does not deny the right to the
983 Department of Behavioral Health and Developmental Disabilities to appeal under the
984 general appeal provisions of Code Sections ~~5-3-2 and 5-3-3~~ Section 5-3-4."

985 **SECTION 2-29.**

986 Chapter 7 of Title 37 of the Official Code of Georgia Annotated, relating to hospitalization
987 and treatment of alcoholics, drug dependent individuals, and drug abusers, is amended by
988 revising Code Section 37-7-150, relating to right to appeal orders of probate court, juvenile
989 court, or hearing examiner, payment of costs of appeal, right of patient to subsequent appeal,
990 and right of patient to legal counsel on appeal, as follows:

991 "37-7-150.

992 The patient, the patient's representatives, or the patient's attorney may appeal any order of
993 the probate court or hearing officer rendered in a proceeding under this chapter to the
994 superior court of the county in which the proceeding was held, except as otherwise

995 provided in Article 6 of Chapter 9 of Title 15, and may appeal any order of the juvenile
996 court rendered in a proceeding under this chapter to the Court of Appeals or the Supreme
997 Court. The appeal to the superior court shall be made in the same manner as appeals from
998 the probate court to the superior court, except that the appeal shall be heard before the court
999 sitting without a jury as soon as practicable but not later than 30 days following the date
1000 on which the appeal is filed with the clerk of the superior court. The appeal from the order
1001 of the juvenile court to the Court of Appeals or the Supreme Court shall be as provided by
1002 law but shall be heard as expeditiously as possible. The patient must pay all costs upon
1003 filing any appeal authorized under this Code section or must make an affidavit that he or
1004 she is unable to pay costs. The patient shall retain all rights of review of any order of the
1005 superior court, the Court of Appeals, or the Supreme Court, as provided by law. The
1006 patient shall have a right to counsel or, if unable to afford counsel, shall have counsel
1007 appointed for the patient by the court. The appeal rights provided to the patient, the
1008 patient's representatives, or the patient's attorney in this Code section are in addition to any
1009 other appeal rights which the parties may have, and the provision of the right for the
1010 patient, the patient's representatives, or the patient's attorney to appeal does not deny the
1011 right to the Department of Behavioral Health and Developmental Disabilities to appeal
1012 under the general appeal provisions of Code Sections ~~5-3-2 and 5-3-3~~ Section 5-3-4."

1013

SECTION 2-30.

1014 Code Section 38-3-64 of the Official Code of Georgia Annotated, relating to appeal rights
1015 of adversely affected parties relative to judicial emergencies and cost of appeal borne by
1016 state, is amended by revising subsection (b) as follows:

1017 "(b) A ~~notice of appeal~~ petition for review shall be filed no later than 45 days after the
1018 expiration of the judicial emergency order, or any modification or extension of a judicial
1019 emergency order, from which an appeal is sought. A ~~notice of appeal~~ petition for review

1020 shall be filed with the clerk of a superior court in any jurisdiction affected by the order and
1021 shall be served upon:

- 1022 (1) The authorized judicial official who issued the order;
- 1023 (2) The parties to any criminal proceeding or civil litigation in which the appellant is
1024 involved which would be affected by the appeal;
- 1025 (3) The district attorney of the county in which the ~~notice of appeal~~ petition for review
1026 is filed; and
- 1027 (4) All other parties in any criminal proceeding or civil litigation which would be
1028 affected by the appeal; provided, however, that service in this regard shall be
1029 accomplished by publishing notice of the filing of the appeal in the newspaper which is
1030 the legal organ for the county in which the ~~notice of the appeal~~ petition for review is
1031 filed."

1032 SECTION 2-31.

1033 Article 2 of Chapter 13 of Title 40 of the Official Code of Georgia Annotated, relating to
1034 arrests, trials, and appeals regarding prosecution of traffic offenses, is amended by revising
1035 Code Section 40-13-28, relating to appeal to superior court and bond, as follows:

1036 "40-13-28.

1037 Any defendant convicted under this article shall have the right of appeal to the superior
1038 court. The provisions of ~~Code Sections 5-3-29 and 5-3-30~~ subsections (b) and (c) of Code
1039 Section 5-3-5 and subsection (e) of Code Section 5-3-9 shall not apply to appeals under this
1040 Code section. Otherwise, the appeal shall be entered as appeals are entered from the
1041 probate court to the superior court, provided that the defendant shall be entitled to bail and
1042 shall be released from custody upon giving the bond as is provided for appearances in
1043 criminal cases in the courts of this state. Such bond shall have the same conditions as
1044 appearance bonds in criminal cases. The appeal to the superior court shall not be a de novo

1045 investigation before a jury but shall be on the record of the hearing as certified by the judge
1046 of that court who presided at the hearing below."

1047 **SECTION 2-32.**

1048 Code Section 41-2-9 of the Official Code of Georgia Annotated, relating to county or
1049 municipal ordinances relating to unfit buildings or structures, is amended by revising
1050 subsection (d) as follows:

1051 "(d) Where the abatement action does not commence in the superior court, review of a
1052 court order requiring the repair, alteration, improvement, or demolition of a dwelling,
1053 building, or structure shall be ~~by direct appeal to~~ a de novo proceeding in the superior court
1054 under Code ~~Section 5-3-29~~ Sections 5-3-4 and 5-3-5."

1055 **SECTION 2-33.**

1056 Chapter 17 of Title 43 of the Official Code of Georgia Annotated, relating to the "Georgia
1057 Charitable Solicitations Act of 1988," is amended in Code Section 43-17-4, relating to
1058 bonding requirements for registered paid solicitors and deposits in lieu of bond, by revising
1059 subsections (c) and (d) as follows:

1060 "(c) Such deposits shall be held for the benefit of all persons to whom the applicant is
1061 liable for damages under this chapter for a period of two years after such applicant's
1062 registration has expired or been revoked; provided, however, that such deposits shall not
1063 be released at any time while there is pending against the applicant an action (including any
1064 direct appeal of such action, ~~or~~ an appeal based on a petition for certiorari jurisdiction, or
1065 a petition for review), of which the Secretary of State has notice, in a court of competent
1066 jurisdiction in which it is alleged that the applicant is liable for damages under this chapter.
1067 Such deposits shall not be released except upon application to and the written order of the
1068 Secretary of State. The Secretary of State shall have no liability for any such release of any
1069 deposit or part thereof made by him or her in good faith. The Secretary of State may

1070 designate any regularly constituted state depository having trust powers domiciled in this
1071 state as a depository to receive and hold any such deposit. Any such deposit so held shall
1072 be at the expense of the applicant. Such depository shall give to the Secretary of State a
1073 proper trust and safekeeping receipt upon which the Secretary of State shall give an official
1074 receipt to the applicant. The State of Georgia shall be responsible for the safekeeping and
1075 return of all deposits made pursuant to this Code section. So long as the applicant complies
1076 with this chapter, the applicant may demand, receive, bring an action for, and recover the
1077 income from the securities deposited or may exchange and substitute for the letter of credit
1078 or securities deposited or a part thereof, with the approval of the Secretary of State, a letter
1079 of credit or securities of the kinds specified in subsection (b) of this Code section of
1080 equivalent or greater value. No judgment creditor or other claimant of the applicant shall
1081 levy upon any deposit held pursuant to this Code section or upon any part thereof, except
1082 as specified in this subsection. Whenever any person shall file an action in a court of
1083 competent jurisdiction in which it is alleged that the applicant is liable for damages under
1084 this chapter, such person, in order to secure his or her recovery, may give notice to the
1085 Secretary of State of such alleged liability and of the amount of damages claimed, after
1086 which notice the Secretary of State shall be bound to retain, subject to the order of the
1087 Superior Court of Fulton County, as provided in subsection (d) of this Code section, a
1088 sufficient amount of the deposit to pay the judgment in the action.

1089 (d) In the event that the applicant prevails in such action and in the event that such deposits
1090 have been held by the Secretary of State for a period of at least two years after the
1091 applicant's registration has expired or been revoked, then such deposits shall be released
1092 to the applicant; provided, however, that such deposits shall not be released at any time
1093 while there is pending against the applicant an action (including any direct appeal of such
1094 action, ~~or~~ an appeal based on a petition for certiorari jurisdiction, or a petition for review),
1095 of which the Secretary of State has notice, in a court of competent jurisdiction in which it
1096 is alleged that the applicant is liable for damages under this chapter. If a judgment is

1097 rendered in such action by which it is determined that the applicant is liable for damages
1098 under this chapter and the applicant has not paid the judgment within ten days of the date
1099 the judgment became final or if the applicant petitions the Supreme Court of the United
1100 States to take certiorari jurisdiction over such action and the applicant has not paid the
1101 judgment within ten days of the date the Supreme Court of the United States denies
1102 certiorari jurisdiction or within ten days of the date the Supreme Court of the United States
1103 affirms the judgment, then such person may petition the Superior Court of Fulton County
1104 for an order directing the Secretary of State to reduce such deposit or a portion thereof
1105 sufficient to pay the judgment to cash or its equivalent and to pay such judgment to the
1106 extent the judgment may be satisfied with the proceeds of the deposit. If there shall remain
1107 any residue from the deposit and if at least two years have passed since the expiration or
1108 revocation of the applicant's registration, the Secretary of State shall pay such residue to
1109 the applicant, taking his receipt for the residue, which shall be filed and recorded with the
1110 other papers of the case, unless there is pending against the applicant an action (including
1111 any direct appeal of such action, or an appeal based on a petition for certiorari jurisdiction,
1112 or a petition for review), of which the Secretary of State has notice, in a court of competent
1113 jurisdiction in which it is alleged that the applicant is liable for damages under this chapter,
1114 in which case the Secretary of State shall hold or dispose of such residue in accordance
1115 with the provisions of this subsection relating to the holding or disposing of the entire
1116 deposit. If more than one final judgment is rendered against the applicant for violation of
1117 this chapter, the judgment creditors shall be paid in full from such deposit or residue
1118 thereof, to the extent the deposit or residue is sufficient to pay the judgments, in the order
1119 in which the judgment creditors petitioned the Superior Court of Fulton County."

1120 SECTION 2-34.

1121 Said chapter is further amended by revising Code Section 43-17-17, relating to appeals, as
1122 follows:

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1123 "43-17-17.

1124 (a) An appeal may be taken from any order of the Secretary of State resulting from a
1125 hearing held in accordance with Code Section 43-17-16 by any person adversely affected
1126 thereby to the Superior Court of Fulton County by serving the Secretary of State, within 20
1127 days after the date of entry of such order, a ~~written notice of appeal~~, copy of the petition
1128 for review filed in the Superior Court of Fulton County and signed by the appellant
1129 petitioner, stating:

1130 (1) The order from which the appeal is taken;

1131 (2) The ground upon which a reversal or modification of the order is sought; and

1132 (3) A demand for a certified transcript of the record of the order.

1133 (b) Upon receipt of the ~~notice of appeal~~ petition for review, the Secretary of State shall,
1134 within ten days thereafter, make, certify, and deliver to the appellant Superior Court of
1135 Fulton County a transcript of the record of the order from which the appeal is taken,
1136 provided that the appellant shall pay the reasonable costs of such transcript. ~~The appellant,~~
1137 ~~within five days after receipt of the transcript, shall file such transcript and a copy of the~~
1138 ~~notice of appeal with the clerk of the court.~~ The ~~notice of appeal~~ petition for review and
1139 transcript of the record shall constitute appellant's complaint. The complaint shall
1140 thereupon be entered on the trial calendar of the court.

1141 (c) If the order of the Secretary of State shall be reversed, the reviewing court shall by its
1142 mandate specifically direct the Secretary of State as to ~~his~~ any further action to be taken by
1143 the Secretary of State in the matter, including the making and entering of an order or orders
1144 in connection therewith and the conditions, limitations, or restrictions to be therein
1145 contained."

SECTION 2-35.

1146
1147 Article 3 of Chapter 7 or Title 44 of the Official Code of Georgia Annotated, relating to
1148 landlord and tenant dispossessory proceedings, is amended by revising Code
1149 Section 44-7-56, relating to appeal and possession and payment of rent pending appeal, as
1150 follows:

1151 "44-7-56.

1152 (a) Any judgment by the trial court shall be appealable pursuant to Chapters 2, 3, 6, and 7
1153 of Title 5, provided that any such appeal shall be filed within seven days of the date such
1154 judgment was entered and provided, further, that, after,

1155 (b) An appeal made pursuant to subsection (a) of this Code section shall proceed as
1156 follows:

1157 (1) A copy of the petition for review filed in the reviewing superior or state court or the
1158 notice of appeal is shall be filed with the clerk of the trial court within seven days after
1159 the date the judgment was entered in the trial court; the

1160 (2) The clerk shall immediately notify the trial judge of the petition for review or notice
1161 of appeal, and the trial judge may, within 15 days after the same is filed in the trial court,
1162 supplement the record with findings of fact and conclusions of law which will be
1163 considered as a part of the order of the judge in that case; and

1164 (3) If the judgment of the trial court is against the tenant and the tenant appeals this
1165 judgment, the tenant shall be required to notify the trial court of his or her appeal and pay
1166 into the registry of the reviewing superior or state court all sums found by the trial court
1167 to be due for rent in order to remain in possession of the premises; and

1168 (4) The tenant shall also be required to pay all future rent as it becomes due into the
1169 registry of the trial reviewing superior or state court pursuant to paragraph (1) of
1170 subsection (a) of Code Section 44-7-54 until the issue has been finally determined on
1171 appeal."

1172 **SECTION 2-36.**

1173 Code Section 44-7-115 of the Official Code of Georgia Annotated, relating to foreclosure of
 1174 liens on abandoned or intact mobile homes, is amended by revising paragraph (8) as follows:

1175 "(8) Any order issued by the magistrate court shall be appealable pursuant to ~~Article 2~~
 1176 ~~of Chapter 3 of Title 5~~, provided that any such appeal shall be filed within seven days ~~of~~
 1177 after the date such order was entered and provided, further, that, after the ~~notice of appeal~~
 1178 petition for review is filed with the clerk of the ~~trial~~ reviewing superior or state court, the
 1179 clerk of such court shall immediately notify the magistrate court of the ~~notice of appeal~~
 1180 petition for review. If the order of the magistrate court is against the responsible party
 1181 and the responsible party appeals such order, the responsible party shall be required to
 1182 pay into the registry of the reviewing superior or state court all sums found by the
 1183 magistrate court to be due in order to remain in possession of the mobile home. The
 1184 responsible party shall also be required to pay all future rent into the registry of the
 1185 reviewing superior or state court as it becomes due in such amounts specified in
 1186 paragraph (2) of this Code section until the issue has been finally determined on appeal."

1187 **SECTION 2-37.**

1188 Code Section 47-14-51 of the Official Code of Georgia Annotated, relating to payments to
 1189 the Superior Court Clerks' Retirement Fund of Georgia from fees collected in certain civil
 1190 actions and for recording of instruments pertaining to real estate, records, audit of records,
 1191 use of sums remitted, and failure of clerk to remit, is amended by revising subsections (a) and
 1192 (e) as follows:

1193 "(a) In addition to all other legal costs, the sum of \$1.00 shall be charged and collected in
 1194 each civil suit, action, case, or proceeding filed in the superior courts or in any other court
 1195 of this state in which a clerk eligible for membership in this retirement fund is clerk,
 1196 including, without limiting the generality of the foregoing, all adoptions, charters, ~~certiorari~~
 1197 petitions for review, applications by a personal representative for leave to sell or reinvest,

1198 trade name registrations, applications for change of name, and all other proceedings of a
1199 civil nature, filed in the superior courts or other such courts."

1200 "(e) The sum of \$1.00 shall be paid out of the fees charged and collected pursuant to
1201 Title 15 in each civil suit, action, case, or proceeding filed in the superior courts or in any
1202 other court of this state in which a clerk eligible for membership in this retirement fund is
1203 clerk and shall be remitted to the board as provided in subsection (c) of this Code section.
1204 Such fees shall include, without limiting the generality of the foregoing, all adoptions,
1205 charters, ~~certiorari~~ petitions for review, applications by a personal representative for leave
1206 to sell or reinvest, trade name registrations, applications for change of name, and all other
1207 proceedings of a civil nature filed in the superior courts or other such courts."

1208 **SECTION 2-38.**

1209 Code Section 47-16-61 of the Official Code of Georgia Annotated, relating to payments to
1210 the Sheriffs' Retirement Fund of Georgia from fees collected in civil actions, duty to record
1211 and remit sums collected, and penalties on delinquent amounts, is amended by revising
1212 subsections (a) and (b) as follows:

1213 "(a) In addition to all other legal costs, the sum of \$1.00 shall be charged and collected in
1214 each civil action, case, or proceeding, including, without limiting the generality of the
1215 foregoing, all adoptions, charters, ~~certiorari~~ petitions for review, applications by personal
1216 representative for leave to sell or invest, trade name registrations, applications for change
1217 of name, and all other proceedings of a civil nature filed in the superior courts. The clerks
1218 of the superior courts shall collect such fees, and the fees so collected shall be remitted to
1219 the board quarterly or at such other time as the board may provide. It shall be the duty of
1220 the clerks of the superior courts to keep accurate records of the amounts due the board
1221 under this subsection, and such records may be audited by the board at any time. The sums
1222 remitted to the board under this subsection shall be used only for the purposes provided for
1223 in this chapter.

1224 (b) In addition to all other legal costs, the sum of \$1.00 shall be charged and collected in
 1225 each civil action, case, or proceeding, including, without limiting the generality of the
 1226 foregoing, all adoptions, charters, certiorari petitions for review, applications by personal
 1227 representative for leave to sell or invest, trade name registrations, applications for change
 1228 of name, and all other proceedings of a civil nature filed in the state courts and magistrate
 1229 courts of this state in which the sheriff of the superior court also fulfills the function as
 1230 sheriff of such inferior court. The clerks of such state courts and magistrate courts shall
 1231 collect such fees, and the fees so collected shall be remitted to the board quarterly or at
 1232 such other time as the board may provide. It shall be the duty of the clerks of such state
 1233 courts and magistrate courts to keep accurate records of the amounts due the board under
 1234 this subsection, and such records may be audited by the board at any time. The sums
 1235 remitted to the board under this subsection shall be used only for the purposes provided for
 1236 in this chapter."

1237 **SECTION 2-39.**

1238 Code Section 48-5-311 of the Official Code of Georgia Annotated, relating to creation of
 1239 county boards of equalization, duties, review of assessments, and appeals, is amended by
 1240 revising paragraph (2) of subsection (g) as follows:

1241 "(2) An appeal by the taxpayer as provided in paragraph (1) of this subsection shall be
 1242 effected by ~~emailing, if the county board of tax assessors has adopted a written policy~~
 1243 ~~consenting to electronic service, or by mailing to or filing with the county board of tax~~
 1244 ~~assessors a written notice of appeal~~ servicing a copy of a petition for review filed in
 1245 superior court upon a county board of tax assessors. An appeal by the county board of
 1246 tax assessors shall be effected by ~~giving notice to~~ servicing the taxpayer with a copy of the
 1247 petition for review filed in superior court. The ~~notice to~~ petition for review served on the
 1248 taxpayer shall be dated and shall contain the name and the last known address of the
 1249 taxpayer. The ~~notice of appeal~~ petition for review shall specifically state the grounds for

1250 appeal. The ~~notice shall be mailed or filed~~ petition for review shall be served within 30
1251 days from the date on which the decision of the county board of equalization, hearing
1252 officer, or arbitrator is delivered pursuant to subparagraph (e)(6)(D), paragraph (7) of
1253 subsection (e.1), or division (f)(3)(C)(ix) of this Code section. Within 45 days of receipt
1254 of a taxpayer's ~~notice of appeal~~ petition for review and before certification of the appeal
1255 to the superior court, the county board of tax assessors shall send to the taxpayer notice
1256 that a settlement conference, in which the county board of tax assessors and the taxpayer
1257 shall confer in good faith, will be held at a specified date and time which shall be no later
1258 than 30 days from the notice of the settlement conference, and notice of the amount of
1259 the filing fee, if any, required by the clerk of the superior court. The taxpayer may
1260 exercise a one-time option to reschedule the settlement conference to a different date and
1261 time acceptable to the taxpayer during normal business hours. After a settlement
1262 conference has convened, the parties may agree to continue the settlement conference to
1263 a later date. If at the end of the 45 day review period the county board of tax assessors
1264 elects not to hold a settlement conference, then the appeal shall terminate and the
1265 taxpayer's stated value shall be entered in the records of the board of tax assessors as the
1266 fair market value for the year under appeal and the provisions of subsection (c) of Code
1267 Section 48-5-299 shall apply to such value. If the taxpayer chooses not to participate in
1268 the settlement conference, he or she may not seek and shall not be awarded fees and costs
1269 at such time when the appeal is settled in superior court. If at the conclusion of the
1270 settlement conference the parties reach an agreement, the settlement value shall be
1271 entered in the records of the county board of tax assessors as the fair market value for the
1272 tax year under appeal and the provisions of subsection (c) of Code Section 48-5-299 shall
1273 apply to such value. If at the conclusion of the settlement conference the parties cannot
1274 reach an agreement, then written notice shall be provided to the taxpayer that the filing
1275 fees must be paid by the taxpayer to the clerk of the superior court within 20 days of the
1276 date of the conference, with a copy of the check delivered to the county board of tax

1277 assessors. Notwithstanding any other provision of law to the contrary, the amount of the
1278 filing fee for an appeal under this subsection shall be \$25.00. An appeal under this
1279 subsection shall not be subject to any other fees or additional costs otherwise required
1280 under any provision of Title 15 or under any other provision of law. Immediately
1281 following payment of such \$25.00 filing fee by the taxpayer to the clerk of the superior
1282 court, the clerk shall remit the proceeds thereof to the governing authority of the county
1283 which shall deposit the proceeds into the general fund of the county. Within 30 days of
1284 receipt of proof of payment to the clerk of the superior court, the county board of tax
1285 assessors shall certify to the clerk of the superior court the ~~notice of appeal~~ petition for
1286 review and any other papers specified by the person appealing, including, but not limited
1287 to, the staff information from the file used by the county board of tax assessors, the
1288 county board of equalization, the hearing officer, or the arbitrator. All papers and
1289 information certified to the clerk shall become a part of the record on appeal to the
1290 superior court. At the time of certification of the appeal, the county board of tax
1291 assessors shall serve the taxpayer and his or her attorney of record, if any, with a copy of
1292 the ~~notice of appeal~~ petition for review and with the civil action file number assigned to
1293 the appeal. Such service shall be effected in accordance with subsection (b) of Code
1294 Section 9-11-5. No discovery, motions, or other pleadings may be filed by the county
1295 board of tax assessors in the appeal until such service has been made."

1296 **PART III.**

1297 **SECTION 3-1.**

1298 This Act shall become effective on July 1, 2023, and shall apply to petitions for review filed
1299 in superior or state court on or after such date.

1300

SECTION 3-2.

1301 All laws and parts of laws in conflict with this Act are repealed.