

House Bill 1517

By: Representative Lim of the 98<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 41 of the Official Code of Georgia Annotated, relating to  
2 general provisions regarding nuisances, so as to provide for a presumption of the creation of  
3 a nuisance based on certain residential local ordinance violations; to amend Article 1 of  
4 Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem  
5 taxation of property generally, so as to provide criminal penalties for the failure of a tax  
6 receiver or tax commissioner to collect certain delinquent taxes; to amend Article 7 of  
7 Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to medical  
8 assistance generally, so as to require that, for an estate containing residential real property,  
9 the commissioner of community health waive any claim against the greater of the first  
10 \$25,000.00 of such estate or 50 percent of the median home value within the county where  
11 certain residential real property of such estate is located; to provide for the submission of an  
12 amendment to the state plan; to provide for contingent repeal; to amend Chapter 2 of Title  
13 14 of the Official Code of Georgia Annotated, relating to business corporations, so as to  
14 require corporations to provide a list of authorized filers to the Secretary of State; to provide  
15 for definitions; to provide for related matters; to repeal conflicting laws; and for other  
16 purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 1517

- 1 -

**SECTION 1.**

Chapter 1 of Title 41 of the Official Code of Georgia Annotated, relating to general provisions regarding nuisances, is amended by adding a new Code section to read as follows:

"41-1-4.1.

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

(1) 'County or municipal codes and ordinances' means zoning ordinances and resolutions, ordinances and resolutions enacting subdivision regulations, environmental ordinances and resolutions, state minimum standard codes provided for in Code Section 8-2-25, ordinances and resolutions enacted pursuant to Code Section 8-2-25, other ordinances and resolutions regulating the development of real property, and ordinances and regulations providing for control of litter and debris, control of junked or abandoned vehicles, and control of overgrown vegetation.

(2) 'Residential property' means any single-family, two-family, three-family, and four-family residential real estate in this state.

(3) 'Violations involving the health or safety of persons' means any violation of county or municipal codes or ordinances that creates a legitimate concern for the health and safety of an occupant of a residential property or that creates an immediate and substantial danger to the environment.

(b) A defendant under Code Section 41-1-3 or 41-1-4 shall be conclusively presumed to have created a nuisance for the purposes of this chapter under the following circumstances:

(1) He or she has been found guilty of or pled guilty to at least five violations involving the health or safety of persons during any two-year time period; and

(2) All such violations occurred on residential property."

**SECTION 2.**

Article 1 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem taxation of property generally, is amended by revising Code Section 48-5-22,

44 relating to penalty for failing to have returned for taxation and to collect taxes on property  
45 unlawfully exempted, as follows:

46 "48-5-22.

47 (a) It shall be unlawful for any tax receiver or tax commissioner to fail to:

48 (1) Have returned for taxation all property required by law to be returned for taxation  
49 pursuant to Code Section 48-5-21; or

50 (2) Collect taxes assessed on all property pursuant to Code Section 48-5-21.

51 (b) Any person who violates subsection (a) of this Code section shall be guilty of a  
52 misdemeanor; provided, however, that any person who violates paragraph (2) of  
53 subsection (a) of this Code section shall be guilty of a felony where the taxes due, payable,  
54 and delinquent for a parcel of property exceeds \$150,000.00."

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### SECTION 3.

56 Article 7 of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to  
57 medical assistance generally, is amended by revising Code Section 49-4-147.1, relating to  
58 claims by department against the estate of Medicaid recipients, as follows:

59 "49-4-147.1.

60 (a) In accordance with applicable federal law and regulations, including those under Title  
61 XIX of the federal Social Security Act, the department may make claim against the estate  
62 of a Medicaid recipient for the amount of any medical assistance payments made on such  
63 person's behalf by the department. A claim shall be made against the estate of a deceased  
64 Medicaid recipient only if at the time of application for medical assistance the applicant  
65 received written notice that the medical assistance costs could be recovered from the  
66 applicant's estate and the applicant signed a written acknowledgment of receipt of such  
67 notice, the estate is otherwise subject to recovery, and if no hardship or other exemption  
68 exists. The commissioner shall waive such claim if he or she determines enforcement of

69 the claim would result in substantial and unreasonable hardship to dependents of the  
70 individual against whose estate the claim exists.

71 (b) The estate recovery program established pursuant to this Code section shall not be  
72 effective any earlier than May 3, 2006. In no event shall the department make claims  
73 against the estate of a Medicaid recipient for the amount of any medical assistance  
74 payments made on such person's behalf prior to May 3, 2006.

75 (c) The commissioner shall delay execution of a claim against the estate where the  
76 dependents or heirs agree to pay the full amount of the claim in reasonable installments.

77 (d) To prevent substantial and unreasonable hardship, the commissioner shall waive any  
78 claim against the first \$25,000.00 of any estate. No later than July 1, 2018, the department  
79 shall submit to the United States Department of Health and Human Services Centers for  
80 Medicare and Medicaid Services an amendment to the state plan reflecting the provisions  
81 of this subsection. In the event that such amendment to the state plan is not approved, this  
82 subsection shall stand repealed in its entirety.

83 (e)(1) Notwithstanding subsection (d) of this Code section, on and after January 1, 2027,  
84 for any estate that includes residential real property, the commissioner shall waive any  
85 claim against the greater of the first \$25,000.00 of the estate or 50 percent of the median  
86 home value within the county where the residential real property is located; provided,  
87 however, that, if the estate includes more than one residential real property, any  
88 determination of median home value shall be based on the residential real property with  
89 the highest property valuation, as determined by the county board of tax assessors in  
90 accordance with Code Section 48-5-299. To determine the median home value within  
91 a county, the commissioner may utilize the most recent American Community Survey as  
92 reported by the Bureau of Labor Statistics of the United States Department of Labor or  
93 any other similar source, if the commissioner determines that such source fairly reflects  
94 the median home value of counties within this state.

95 (2) The county board of tax assessors shall cooperate with the commissioner in his or her  
 96 efforts to perform his or her duties under this subsection.

97 (3) Not later than August 1, 2026, the department shall submit to the United States  
 98 Department of Health and Human Services Centers for Medicare and Medicaid Services  
 99 an amendment to the state plan reflecting the provisions of this subsection. In the event  
 100 that such amendment is not approved, this subsection shall stand repealed in its entirety."

101 **SECTION 4.**

102 Chapter 2 of Title 14 of the Official Code of Georgia Annotated, relating to business  
 103 corporations, is amended by revising Code Section 14-2-120, relating to filing requirements,  
 104 as follows:

105 "14-2-120.

106 (a) A document ~~must~~ shall satisfy the requirements of this Code section and of any other  
 107 Code section that adds to or varies these requirements to be entitled to filing by the  
 108 Secretary of State.

109 (b) This chapter ~~must~~ shall require or permit filing the document in the office of the  
 110 Secretary of State.

111 (c) The document ~~must~~ shall contain the information required by this chapter. It may  
 112 contain other information as well.

113 (d) The document ~~must~~ shall be typewritten or printed.

114 (e) The document ~~must~~ shall be in the English language. A corporate name need not be  
 115 in English if written in English letters or Arabic or Roman numerals, and the certificate of  
 116 existence required of foreign corporations need not be in English if accompanied by a  
 117 reasonably authenticated English translation.

118 (f) Prior to filing a document with the Secretary of State, a corporation shall provide a list  
 119 of authorized persons who may execute and file documents under this chapter.

120 ~~(f)~~(g) The document ~~must~~ shall be executed:

121 (1) By the chairperson of the board of directors of a domestic or foreign corporation, by  
122 its president, or by another of its officers;

123 (2) If directors have not been selected or the corporation has not been formed, by an  
124 incorporator; ~~or~~

125 (3) If the corporation is in the hands of a receiver, trustee, or other court appointed  
126 fiduciary, by that fiduciary; or

127 (4) An authorized person;

128 provided, however, that the person executing the document may do so as an attorney in  
129 fact. Powers of attorney relating to the execution of the document do not need to be shown  
130 to or filed with the Secretary of State.

131 ~~(g)~~(h) The person executing the document shall sign it and state beneath or opposite his  
132 or her signature his or her name and the capacity in which he or she signs; provided,  
133 however, that, if the document is electronically transmitted, the electronic version of such  
134 person's name may be used in lieu of a signature. The document may but need not contain:

135 (1) The corporate seal;

136 (2) An attestation by the secretary or an assistant secretary; or

137 (3) An acknowledgment, verification, or proof.

138 ~~(h)~~(i) The document ~~must~~ shall be delivered to the office of the Secretary of State for filing  
139 and ~~must~~ shall be accompanied by one exact or conformed copy (except as provided in  
140 Code Sections 14-2-503 and 14-2-1509), the correct filing fee, any certificate required by  
141 Code Section 14-2-201.1, 14-2-1006.1, 14-2-1105.1, or 14-2-1403.1, and any penalty  
142 required by this chapter or other law.

143 ~~(i)~~(j) Notwithstanding the provisions of this chapter, the Secretary of State may authorize  
144 the filing of documents by electronic transmission, following the provisions of Chapter 12  
145 of Title 10, the 'Uniform Electronic Transactions Act,' and the Secretary of State shall be  
146 authorized to promulgate such rules and regulations as are necessary to implement  
147 electronic filing procedures."

148 **SECTION 5.**

149 Said chapter is further amended in Code Section 14-2-140, relating to definitions, by adding  
150 a new paragraph to read as follows:

151 "(1.1) 'Authorized person' means a person who is authorized by a corporation to execute  
152 and file documents under this chapter on behalf of the corporation."

153 **SECTION 6.**

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