

Senate Bill 11

By: Senator Thompson of the 33rd

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

To amend Article 6 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to business development corporations, so as to change the powers of business development corporations; to change a provision relating to incurring secondary liability; to clarify that powers relate to commercial and historical real and personal property and certain residential projects; to provide for powers of such corporations relating to a partnership interest in any partnership or other entity; to increase the limitation on the sum of the amount outstanding of member loans to the corporation made by any member at any one time and the amount of the investment in the capital of the corporation then held by such member; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 6 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to business development corporations, is amended in Code Section 7-1-745, relating to powers of business development corporations, by striking in their entirety paragraphs (2), (5), (6), and (7) and inserting in lieu thereof the following:

"(2) To make contracts and incur liabilities for any of the purposes of the corporation; provided that the corporation shall not incur any secondary liability by way of the guaranty or endorsement of the obligations of any person or corporation or in any other manner unless the corporation has a substantial interest in the performance of the transaction;"

"(5) To purchase, receive, hold, lease, or otherwise acquire and to sell, convey, transfer, lease, or otherwise dispose of commercial or historical real and personal property and residential projects referred to the corporation by its shareholders or members, together with such rights and privileges as may be incidental and appurtenant thereto and the use

thereof, including, but not restricted to, any real or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement of obligations;

(6) To acquire the good will, business rights, real and personal property, and other assets or any part thereof or interest therein of any persons or corporations and to assume, undertake, or pay the obligations, debts, and liabilities of any such person or corporation; to acquire improved or unimproved real estate for the purpose of constructing residential buildings, industrial plants or ~~other~~ business establishments thereon or for the purposes of disposing of such real estate to others for the construction of residential buildings, industrial plants, industrial parks, or ~~other~~ business establishments; and to acquire, construct or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease, or otherwise dispose of residential buildings, industrial plants, industrial parks, or business establishments;

(7) To acquire, subscribe for, own, sell, hold, assign, transfer, mortgage, pledge, or otherwise dispose of a partnership interest in any partnership or other entity or the stock, shares, bonds, debentures, notes, or other securities and evidences of interest in or indebtedness of any person or corporation and, while the owner or holder thereof, to exercise all the rights, powers, and privileges of ownership, including the right to vote thereon;"

SECTION 2.

Said article is further amended in Code Section 7-1-747, relating to membership and loans by members to business development corporations, is amended by striking subsection (c) in its entirety and inserting in lieu thereof the following:

"(c) The total amount outstanding on member loans to the corporation made by any member at any one time, when added to the amount of the investment in the capital of the corporation then held by such member, shall not exceed the lesser of:

(1) Twenty percent of the aggregate of the capital of the corporation then outstanding plus the total amount then outstanding on all member loans to the corporation, including in said total amount outstanding amounts validly called as member loans but not yet loaned; or

(2) The following limit, to be determined each calendar year of membership on the basis of the audited balance sheet of such member at the close of its fiscal year immediately preceding or, in the case of an insurance company, its last annual statement to the Commissioner of Insurance:

(A) Five percent of the statutory capital base of a bank or trust company;

(B) One-half of 1 percent of the total outstanding loans made by building and loan or savings and loan associations;

(C) Two and one-half percent of the capital and unassigned surplus of stock insurance companies, except fire insurance companies;

(D) Two and one-half percent of the unassigned surplus of mutual insurance companies, except fire insurance companies;

(E) One-tenth of 1 percent of the assets of fire insurance companies; and

(F) Such limits as may be approved by the board of directors of the corporation for other lending institutions; or

(3) Three million ~~One million five hundred thousand~~ dollars."

SECTION 3.

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