

House Bill 206

By: Representatives Sainz of the 180th, LaHood of the 175th, Stephens of the 164th, Taylor of the 173rd, Williams of the 148th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,
2 so as to provide for the creation of Commercial Property Assessed Conservation, Energy, and
3 Resiliency Development Authorities in certain counties and municipalities; to specify their
4 purpose; to define certain terms; to provide for the creation and activation of authorities; to
5 provide for joint authorities; to provide for boards of directors; to provide for organization;
6 to specify powers; to provide for financial obligations; to specify provisions, remedies,
7 obligations, and procedures; to provide for construction; to provide that authority obligations
8 do not constitute public debt; to specify certain tax exemptions; to provide for cities and
9 counties to cooperate with authorities in financing qualifying improvements by imposing
10 special assessments on qualifying commercial properties; to provide for the collection and
11 lien status of such assessments; to provide for the dissolution of such authorities; to provide
12 for related matters; to provide an effective date; to repeal conflicting laws; and for other
13 purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
17 by adding a new chapter to read as follows:

18 "CHAPTER 7719 ARTICLE 120 36-77-1.

21 As used in this chapter, the term:

22 (1) 'Assessment' means a special assessment imposed by a participating local
23 government pursuant to Article 3 of this chapter.

24 (2) 'Assessment agreement' means an agreement between an authority and a qualifying
25 property owner, in which, among other things, the authority agrees to pay the costs of
26 qualifying improvements and the qualifying property owner voluntarily requests
27 assessments to be imposed by the participating local government on the qualifying
28 property.

29 (3) 'Assessment financing' means the financing or refinancing of qualifying
30 improvements.

31 (4) 'Authority' means each public corporation created pursuant to Article 2 of this
32 chapter.

33 (5) 'Capital provider' means a private entity or its designee, successor, or assign that
34 purchases an obligation of an authority pursuant to Article 2 of this chapter.

35 (6) 'Cost of the qualifying improvements' or 'cost of any qualifying improvement' means
36 and includes:

37 (A) All costs of acquisition (by purchase or otherwise), construction, assembly,
38 installation, modification, renovation, or rehabilitation incurred in connection with any
39 qualifying improvement or any part of any qualifying improvement;

40 (B) All costs of real property, fixtures, or materials used in or in connection with or
41 necessary for any qualifying improvement or for any facilities related thereto,
42 including, but not limited to, the cost of all easements, rights, improvements, water
43 rights, connections for utility services, fees, franchises, permits, approvals, licenses, and
44 certificates; the cost of securing any such franchises, permits, approvals, licenses, or
45 certificates; and the cost of preparation of any application therefor and the cost of all
46 labor and materials used in or in connection with or necessary for any qualifying
47 improvement;

48 (C) All financing charges and loan fees and all interest on revenue bonds, notes, or
49 other obligations of an authority that accrues or is paid prior to and during the period
50 of construction of a qualifying improvement and during such additional period as the
51 authority may reasonably determine to be necessary to place such qualifying
52 improvement in operation;

53 (D) All costs of engineering, architectural, and legal services and all expenses incurred
54 by engineers, architects, and attorneys in connection with any qualifying improvement;

55 (E) All expenses for inspection and any third party review or verification fees;

56 (F) All fees of fiscal agents, paying agents, and trustees for bondholders under any trust
57 agreement, indenture of trust, or similar instrument or agreement; all expenses incurred
58 by any such fiscal agents, paying agents, and trustees; and all other costs and expenses
59 incurred relative to the issuance of any revenue bonds, notes, or other obligations for
60 any qualifying improvement, including capital provider's fees;

61 (G) All fees of any type charged by an authority in connection with any qualifying
62 improvement;

63 (H) All expenses necessary or incidental to determining the feasibility or practicability
64 of any qualifying improvement;

65 (I) All costs of plans and specifications for any qualifying improvement;

66 (J) Repayment of any loans made for the advance payment of any part of any of the
67 foregoing costs, including interest thereon and any other expenses of such loans;

68 (K) Administrative expenses of the authority and such other expenses as may be
69 necessary or incidental to any qualifying improvement or the financing thereof or the
70 placing of any qualifying improvement in operation; and

71 (L) The establishment of a fund or funds for the creation of a debt service reserve, a
72 renewal and replacement reserve, or such other funds or reserves, including for ad
73 valorem taxes and insurance, as the authority may approve with respect to the financing
74 and operation of any qualifying improvement and as may be authorized by any bond
75 resolution, trust agreement, indenture of trust, or similar instrument or agreement
76 pursuant to the provisions of which the issuance of any revenue bonds, notes, or other
77 obligations of the authority may be authorized.

78 Any cost, obligation, or expense incurred for any of the foregoing purposes shall be a part
79 of the cost of the qualifying improvement and may be paid or reimbursed as such out of
80 proceeds of revenue bonds, notes, or other obligations issued by the authority.

81 (7) 'County' means any county of this state or a governmental entity formed by the
82 consolidation of a county and one or more municipal corporations.

83 (8) 'Financing application' means an application submitted to an authority or program
84 administrator to demonstrate that the proposed improvements qualify for financing
85 pursuant to a program.

86 (9) 'Governing body' means the elected or duly appointed officials constituting the
87 governing body of each municipal corporation and county in this state.

88 (10) 'Intergovernmental agreement' means a contract entered into pursuant to Article IX,
89 Section III, Paragraph I of the Constitution of Georgia between a county or a municipal
90 corporation, as party of the first part, and an authority, as party of the second part,
91 pursuant to which the county or municipal corporation agrees to make payments to the

92 authority, the sole source of which shall be assessments, to furnish financial assistance
93 to aid in the planning, undertaking, or carrying out of a qualifying improvement.

94 (11) 'Municipal corporation' means each city and town in this state.

95 (12) 'Participating local government' means a municipal corporation or a county that
96 enters into an intergovernmental agreement with an authority.

97 (13) 'Program' means a commercial property assessed conservation, energy, and
98 resiliency program established by an authority.

99 (14) 'Program administrator' means any official or agency designated by an authority to
100 administer a program or a private and independent third party designated by an authority
101 to administer a program, provided that the administration procedures used conform to the
102 requirements of Article 2 of this chapter.

103 (15) 'Program guidebook' means a comprehensive document that establishes appropriate
104 guidelines, specifications, approval criteria, and other standard forms consistent with
105 administering a program and not detailed in Article 2 of this chapter, including forms for
106 an assessment agreement, notice of assessment, and financing application.

107 (16) 'Qualifying improvement' means a permanently affixed energy efficiency
108 improvement, renewable energy improvement, water conservation improvement, or
109 resiliency improvement installed on qualifying property as part of the construction or
110 renovation of the qualifying property.

111 (17) 'Qualifying property' means privately owned or leased commercial, industrial, or
112 agricultural real property or multifamily residential real property with five or more
113 dwelling units.

114 (18) 'Resiliency improvement' means any improvement to qualifying property intended
115 to increase resilience and improve durability of such property, including, but not limited
116 to, seismic retrofits, flood mitigation, fire suppression, wind resistance, energy storage,
117 microgrids, and backup power generation.

118

ARTICLE 2119 36-77-2.

120 This article shall be known and may be referred to as the 'Commercial Property Assessed
121 Conservation, Energy, and Resiliency Development Authorities Law.'

122 36-77-3.

123 The General Assembly finds that the construction and renovation of commercial buildings
124 in a manner that reduces energy and water consumption, produces on-site clean sources of
125 energy, and improves resiliency promotes trade, commerce, industry, and employment
126 opportunities in the State of Georgia by reducing operating costs for business enterprises
127 and promoting the long-term competitiveness of the economy of the State for Georgia.
128 Because implementing such improvements requires high up-front capital costs with the
129 resulting benefits achieved only over time, such improvements often cannot be financed
130 on reasonable terms and are therefore not economically feasible for property owners. It is
131 therefore in the public interest and vital to the public welfare of the people of the State of
132 Georgia, and it is declared to be the purpose of this article, to create commercial property
133 assessed conservation, energy, and resiliency development authorities to facilitate free and
134 willing owners of agricultural, commercial, and industrial properties and of multifamily
135 residential properties with five or more dwelling units to obtain low-cost, long-term
136 financing for qualifying improvements, including energy efficiency, water conservation,
137 renewable energy, and resiliency improvements.

138 36-77-4.

139 This article is enacted pursuant to authority granted to the General Assembly by the
140 Constitution of Georgia. Each authority created pursuant to this article is created for
141 nonprofit and public purposes, and it is found, determined, and declared that the creation

142 of each authority and the carrying out of its corporate purposes is in all respects for the
143 benefit of the people of this state and that each authority is an institution of purely public
144 charity and will be performing an essential governmental function in the exercise of the
145 power conferred upon it by this article. For such reasons, the state covenants with the
146 holders from time to time of the revenue bonds, notes, and other obligations issued under
147 this article that no such authority shall be required to pay any taxes or assessments imposed
148 by this state or any of its counties, municipal corporations, political subdivisions, or taxing
149 districts upon any property acquired by the authority or under its jurisdiction, control,
150 possession, or supervision or upon its activities or on any income derived by the authority
151 in any form and that the revenue bonds, notes, and other obligations of each such authority,
152 their transfer, and the income therefrom shall at all times be exempt from taxation within
153 this state. The tax exemption provided in this Code section shall not include any
154 exemption from sales and use tax on property purchased by an authority or for use by an
155 authority.

156 36-77-5.

157 (a) There is created in and for each county and municipal corporation in this state a public
158 body corporate and politic, to be known as the 'commercial property assessed conservation,
159 energy, and resiliency development authority' of such county or municipal corporation. No
160 authority shall transact any business or exercise any powers under this article until the
161 governing body of the county or municipal corporation, by proper ordinance or resolution,
162 declares that there is a need for an authority to function in the county or municipal
163 corporation.

164 (b) Any number of counties and municipal corporations, whether or not located in the
165 same county or within a county participating in the formation of a joint authority, may
166 jointly form an authority, to be known as the 'joint commercial property assessed
167 conservation, energy, and resiliency development authority' for such counties and

168 municipal corporations. No authority shall transact any business or exercise any powers
169 under this article until the governing authorities of the units of local government involved
170 declare, by ordinance or resolution, that there is a need for an authority to function and
171 until the governing authorities authorize the chief elected official of the unit of local
172 government to enter into an agreement with the other units of local government for the
173 activation of an authority and such agreement is executed.

174 (c) A copy of such ordinances, resolutions, and agreements shall be filed with the
175 Secretary of State, who shall maintain a record of all authorities activated under this article.

176 36-77-6.

177 (a) Except as provided in this Code section, control and management of each authority shall
178 be vested in a board of five directors who shall be residents of the county or municipal
179 corporation and shall serve at the pleasure of the governing body of the county or
180 municipal corporation. Directors shall be appointed, and may be reappointed, by the
181 governing body of the county or municipal corporation for terms of four years. In the case
182 of a joint commercial property assessed conservation, energy, and resiliency development
183 authority, each unit of local government participating in the authority shall appoint two
184 members, with an additional member to be appointed by the directors themselves. The
185 directors shall elect one of their members as chairperson and another as vice chairperson
186 and shall also elect a secretary and a treasurer or a secretary-treasurer, either of whom may
187 be, but need not be, a director. The directors shall receive no compensation for their
188 services but shall be reimbursed for their actual expenses incurred in the performance of
189 their duties. The directors may make bylaws and regulations for the governing of the
190 authority and may delegate to one or more of the officers, agents, and employees of the
191 authority such powers and duties as may be deemed necessary and proper.

192 (b) Directors or members appointed by the county or municipal corporation to any other
193 authority and elected or appointed officials of the county or municipal corporation may
194 serve as directors of the authority.

195 36-77-7.

196 A majority of the directors shall constitute a quorum for the transaction of business of an
197 authority; provided, however, that any action with respect to any assessment financing by
198 an authority shall be approved by the affirmative vote of not less than a majority of the
199 directors.

200 36-77-8.

201 (a) Each authority shall have all of the powers necessary or convenient to carry out and
202 effectuate the purposes and provisions of this article, including, but without limiting the
203 generality of the foregoing, the power:

204 (1) To bring and defend actions;

205 (2) To adopt and amend a corporate seal;

206 (3) To make and execute contracts, agreements, and other instruments necessary or
207 convenient to exercise the powers of the authority or to further the public purpose for
208 which the authority is created, including, but not limited to, intergovernmental
209 agreements, assessment agreements, and agreements for grants or loans to finance or
210 refinance qualifying improvements;

211 (4) To finance by loan, grant, or otherwise, including through assessment agreements,
212 and refinance qualifying improvements and to pay the cost of any qualifying
213 improvement from the proceeds of revenue bonds, notes, or other obligations of the
214 authority or any other funds of the authority, or from any contributions or loans by
215 persons, corporations, partnerships, whether limited or general, or other entities, all of
216 which the authority is authorized to receive, accept, and use;

217 (5) To borrow money to further or carry out its public purpose and to execute revenue
218 bonds, notes, or other obligations; trust indentures; trust agreements; agreements for the
219 sale of its revenue bonds, notes, or other obligations; loan agreements; security
220 agreements; assignments; and such other agreements or instruments as may be necessary
221 or desirable, in the judgment of the authority, to evidence and to provide security for such
222 borrowing;

223 (6) To issue revenue bonds, notes, or other obligations of the authority and use the
224 proceeds thereof for the purpose of paying, or loaning or granting the proceeds thereof
225 to pay, all or any part of the cost of any qualifying improvement and otherwise to further
226 or carry out the public purpose of the authority and to pay all costs of the authority
227 incidental to, or necessary and appropriate to, furthering or carrying out such purpose;

228 (7) To make application directly or indirectly to any federal, state, county, or municipal
229 government or agency or to any other source, whether public or private, for loans, grants,
230 guarantees, or other financial assistance in furtherance of the authority's public purpose
231 and to accept and use the same upon such terms and conditions as are prescribed by such
232 federal, state, county, or municipal government or agency or other source;

233 (8) To extend credit or make loans or grants to any person, corporation, partnership,
234 whether limited or general, or other entity for the costs of any qualifying improvement
235 or any part of the costs of any qualifying improvement, which credit, loans, or grants may
236 be evidenced or secured by loan agreements, grant agreements, assessment agreements,
237 notes, mortgages, deeds to secure debt, trust deeds, security agreements, assignments, or
238 such other instruments, or by assessments, revenues, fees, or charges, upon such terms
239 and conditions as the authority shall determine to be reasonable in connection with such
240 extension of credit, loans, or grants, including provision for the establishment and
241 maintenance of reserve funds; and, in the exercise of powers granted by this article in
242 connection with any qualifying improvement, the authority shall have the right and power
243 to require the inclusion in any such loan agreement, grant agreement, assessment

244 agreement, note, mortgage, deed to secure debt, trust deed, security agreement,
245 assignment, or other instrument of such provisions or requirements for guaranty of any
246 obligations, insurance, construction, use, operation, maintenance, and financing of a
247 qualifying improvement, and such other terms and conditions as the authority may deem
248 necessary or desirable;

249 (9) As security for repayment of any revenue bonds, notes, or other obligations of the
250 authority, to pledge, convey, assign, hypothecate, or otherwise encumber any property
251 of the authority, including, but not limited to, contract rights under intergovernmental
252 agreements and revenues or other funds, and to execute any trust indenture; trust
253 agreement; agreement for the sale of the authority's revenue bonds, notes, or other
254 obligations; loan agreement; security agreement; assignment; or other agreement or
255 instrument as may be necessary or desirable, in the judgment of the authority, to secure
256 any such revenue bonds, notes, or the obligations, which instruments or agreements may
257 provide for foreclosure or forced sale of any property of the authority upon default in any
258 obligation of the authority, either in payment of principal, premium, if any, or interest or
259 in the performance of any term or condition contained in any such agreement or
260 instrument. The State of Georgia, on behalf of itself and each county, municipal
261 corporation, political subdivision, or taxing district therein, waives any right it or such
262 county, municipal corporation, political subdivision, or taxing district may have to
263 prevent the forced sale or foreclosure of any property of the authority upon such default
264 and agrees that any agreement or instrument encumbering such property may be
265 foreclosed in accordance with law and the terms thereof;

266 (10) To receive and use the proceeds of any assessment imposed by a municipal
267 corporation or a county to pay the costs of any qualifying improvement or for any other
268 purpose for which the authority may use its own funds pursuant to this article, including
269 the payment of principal of, premium, if any, and interest on revenue bonds, notes, or
270 other obligations of the authority;

- 271 (11) To receive and administer gifts, grants, and devises or money and property of any
272 kind and to administer trusts;
- 273 (12) To acquire, by purchase, lease, or otherwise, and use any real property, personal
274 property, or fixtures or any interest therein or to rent or lease such property to or from
275 others or make contracts with respect to the use thereof, or to sell, lease, exchange,
276 transfer, assign, pledge, or otherwise dispose of or grant options for any such property in
277 any manner as it deems to the best advantage of the authority and the public purpose
278 thereof;
- 279 (13) To acquire, accept, or retain equitable interests, security interests, or other interests
280 in any real property, personal property, or fixtures by loan agreement, note, mortgage,
281 deed to secure debt, trust deed, security agreement, assignment, pledge, conveyance,
282 contract, lien, or other consensual transfer in order to secure the repayment of any
283 moneys loaned or credit extended by the authority;
- 284 (14) To establish and administer programs;
- 285 (15) To appoint, select, and employ program administrators, accountants, fiscal agents,
286 attorneys, and others and to fix their compensation and pay their expenses;
- 287 (16) To adopt bylaws governing the conduct of business by the authority, the election
288 and duties of officers of the authority, and other matters that the authority determines to
289 address in its bylaws;
- 290 (17) To exercise any power granted by the laws of this state to public or private
291 corporations that is not in conflict with the public purpose of the authority; and
- 292 (18) To do all things necessary or convenient to carry out the powers conferred by this
293 article.
- 294 (b) The powers enumerated in each paragraph of subsection (a) of this Code section are
295 cumulative of and in addition to those powers enumerated elsewhere in this article, and no
296 such power limits or restricts any other power of the authority except that, notwithstanding

297 any other provision of this article, no authority described in this article shall be granted the
298 power of eminent domain.

299 (c) When an authority exercises its grant powers given by subsection (a) of this Code
300 section, in determining compliance with Article III, Section VI, Paragraph VI(a) of the
301 Constitution of Georgia, the authority may take into consideration the assessments to be
302 paid by the grant recipient, as well as the substantiality of the public purpose to be achieved
303 by the grant.

304 36-77-9.

305 (a) Revenue bonds, notes, or other obligations issued by an authority shall be paid solely
306 from the property, including, but not limited to, contract rights, revenues, or other funds,
307 pledged, conveyed, assigned, hypothecated, or otherwise encumbered to secure or to pay
308 such bonds, notes, or other obligations.

309 (b) All revenue bonds, notes, and other obligations shall be authorized by resolution of the
310 authority, adopted by a majority vote of the directors of the authority at a regular or special
311 meeting.

312 (c) Revenue bonds, notes, or other obligations shall bear such date or dates; shall mature
313 at such time or times, not more than 40 years from their respective dates; shall bear interest
314 at such rate or rates, which may be fixed or may fluctuate or otherwise change from time
315 to time; shall be subject to redemption on such terms; and shall contain such other terms,
316 provisions, covenants, assignments, and conditions as the resolution authorizing the
317 issuance of such bonds, notes, or other obligations may permit or provide. The terms,
318 provisions, covenants, assignments, and conditions contained in or provided or permitted
319 by any resolution of the authority authorizing the issuance of such revenue bonds, notes,
320 or other obligations shall bind the directors of the authority then in office and their
321 successors.

322 (d) The authority shall have the power from time to time and whenever it deems it
323 expedient to refund any revenue bonds, notes, or other obligations by the issuance of new
324 revenue bonds, notes, or other obligations, whether or not the revenue bonds, notes, or
325 other obligations to be refunded have matured, and may issue revenue bonds, notes, or
326 other obligations partly to refund revenue bonds, notes, or other obligations then
327 outstanding and partly for any other purpose permitted under this article. The refunding
328 revenue bonds, notes, or other obligations may be exchanged for the revenue bonds, notes,
329 or other obligations to be refunded, with such cash adjustments as may be agreed upon, or
330 may be sold and the proceeds applied to the purchase or redemption of the revenue bonds,
331 notes, or other obligations to be refunded.

332 (e) There shall be no limitation upon the amount of revenue bonds, notes, or other
333 obligations that an authority may issue. Any limitations with respect to interest rates or any
334 maximum interest rate or rates found in Article 3 of Chapter 82 of this title, the "Revenue
335 Bond Law," the usury laws of this state, or any other laws of this state shall not apply to
336 revenue bonds, notes, or other obligations of an authority.

337 36-77-10.

338 (a) All revenue bonds issued by an authority under this article shall be issued and validated
339 under and in accordance with Article 3 of Chapter 82 of this title, the "Revenue Bond
340 Law," except as provided in this article, provided that notes and other obligations of an
341 authority may, but shall not be required to, be so validated.

342 (b) Bonds issued by an authority may be in such form, either coupon or fully registered,
343 or both coupon and fully registered, and may be subject to such exchangeability and
344 transferability provisions, as the bond resolution authorizing the issuance of such bonds or
345 any indenture or trust agreement may provide.

346 (c) Bonds shall bear a certificate of validation. The signature of the clerk of the superior
347 court of the county in which the issuing authority is located may be made on the certificate

348 of validation of such bonds by facsimile or by manual execution, stating the date on which
349 such bonds were validated, and such entry shall be original evidence of the fact of
350 judgment and shall be received as original evidence in any court in this state.

351 (d) In lieu of specifying the rate or rates of interest that bonds to be issued by an authority
352 are to bear, the notice to the district attorney or the Attorney General; the notice to the
353 public of the time, place, and date of the validation hearing; and the petition and complaint
354 for validation may state that the bonds when issued will bear interest at a rate not exceeding
355 a maximum per annum rate of interest, which may be fixed or may fluctuate or otherwise
356 change from time to time, specified in such notices and petition and complaint or may state
357 that, in the event the bonds are to bear different rates of interest for different maturity dates,
358 none of such rates will exceed the maximum rate, which may be fixed or may fluctuate or
359 otherwise change from time to time, so specified; provided, however, that nothing in this
360 Code section shall be construed as prohibiting or restricting the right of an authority to sell
361 such bonds at a discount, even if in doing so the effective interest cost resulting therefrom
362 would exceed the maximum per annum interest rate specified in such notices and in the
363 petition and complaint.

364 (e) The terms 'cost of the qualifying improvement' and 'cost of any qualifying
365 improvement' shall have the meaning prescribed in this article whenever those terms are
366 referred to in bond resolutions of an authority; in bonds, notes, or other obligations of an
367 authority; or in notices or proceedings to validate such bonds, notes, or other obligations
368 of an authority.

369 36-77-11.

370 (a) Subject to the limitations and procedures provided by this Code section and by Code
371 Section 36-77-10, the agreements or instruments executed by an authority may contain
372 such provisions not inconsistent with law as shall be determined by the board of directors
373 of the authority.

374 (b) The proceeds derived from the sale of all bonds, notes, and other obligations issued by
375 an authority shall be held and used for the ultimate purpose of paying, directly or indirectly
376 as permitted in this article, all or part of the cost of any qualifying improvement, or for the
377 purpose of refunding any bonds, notes, or other obligations issued in accordance with this
378 article.

379 (c) Issuance by an authority of one or more series of bonds, notes, or other obligations for
380 one or more purposes shall not preclude it from issuing other bonds, notes, or other
381 obligations in connection with the same qualifying improvement or with any other
382 qualifying improvements, but the proceeding wherein any subsequent bonds, notes, or
383 other obligations are issued shall recognize and protect any prior loan agreement, security
384 agreement, or other agreement or instrument made for any prior issue of bonds, notes, or
385 other obligations, unless in the resolution authorizing such prior issue the right is expressly
386 reserved to the authority to issue subsequent bonds, notes, or other obligations on a parity
387 with such prior issue.

388 (d) An authority shall have the power and is authorized, whenever bonds of the authority
389 shall have been validated as provided in this article, to issue from time to time its bond
390 anticipation notes in anticipation of such bonds as validated and to renew from time to time
391 any such bond anticipation notes by the issuance of new bond anticipation notes, whether
392 or not the bond anticipation notes to be renewed have matured. The authority may issue
393 such bond anticipation notes only to provide funds that would otherwise be provided by the
394 issuance of the bonds as validated. Such bond anticipation notes may be authorized, sold,
395 executed, and delivered in the same manner as bonds. As with its bonds, the authority may
396 sell such bond anticipation notes at public sale or at private sale. Any resolution or
397 resolutions authorizing bond anticipation notes of the authority or any issue thereof may
398 contain any provisions that the authority is authorized to include in any resolution or
399 resolutions authorizing bonds of the authority or any issue thereof, and the authority may
400 include in any bond anticipation notes any terms, covenants, or conditions that the authority

401 is authorized to include in any bonds. Validation of such bonds shall be a condition
402 precedent to the issuance of such bond anticipation notes, but it shall not be required that
403 such bond anticipation notes be judicially validated. Bond anticipation notes shall not be
404 issued in an amount exceeding the par value of the bonds in anticipation of which they are
405 to be issued.

406 36-77-12.

407 No bonds, notes, or other obligations of, and no indebtedness incurred by, an authority
408 shall constitute an indebtedness or obligation of the State of Georgia or of any county,
409 municipal corporation, or political subdivision thereof, nor shall any act of any authority
410 in any manner constitute or result in the creation of an indebtedness of this state or of any
411 county, municipal corporation, or political subdivision thereof. No holder or holders of any
412 such bonds, notes, or other obligations shall ever have the right to compel any exercise of
413 the taxing power of this state or of any county, municipal corporation, or political
414 subdivision thereof, nor to enforce the payment thereof against any property of this state
415 or of any county, municipal corporation, or political subdivision.

416 36-77-13.

417 (a) A program shall establish a financing application and review process to evaluate such
418 applications. The program shall prescribe the form and manner of the financing
419 application. At a minimum:

420 (1) An applicant shall demonstrate that the qualifying improvement provides a benefit
421 to the public in the form of energy or water resource conservation or improved resiliency;

422 (2) For an existing building:

423 (A) When energy or water efficiency improvements are proposed, an applicant shall
424 provide:

- 425 (i) An energy or water efficiency analysis by a licensed engineering firm, engineer,
426 or other qualified professional listed in the program guidebook; and
427 (ii) A statement by the author of the analysis that the proposed qualifying
428 improvements will result in more efficient use or conservation of energy or water, the
429 reduction of greenhouse gas emissions, or the addition of renewable sources of energy
430 or water; or
- 431 (B) When resiliency improvements are proposed, an applicant shall provide
432 certification by a licensed engineering firm, engineer, or other qualified professional
433 listed in the program guidebook stating that the proposed qualifying improvements will
434 result in improved resilience;
- 435 (3) For new construction, an applicant shall provide certification by a licensed
436 engineering firm, engineer, or other qualified professional listed in the program
437 guidebook stating that the proposed qualifying improvements will enable the qualifying
438 property to exceed the current building code requirements for:
- 439 (A) Energy efficiency;
440 (B) Water efficiency;
441 (C) Renewable energy; or
442 (D) Resilience;
- 443 (4) An applicant shall include a certification that the person requesting the proposed
444 qualifying improvements is the owner of the qualifying property and that there are no
445 delinquent taxes or assessments on the qualifying property; and
- 446 (5) An applicant must demonstrate that the proposed assessment financing meets the
447 following guidelines and any other guidelines adopted by the authority, which may be in
448 addition to or more restrictive than the following guidelines:
- 449 (A) Unless a higher percentage is agreed to by the holder of a lien, mortgage, or
450 security deed encumbering the qualifying property in the written consent required by
451 subsection (b) of this Code section, an applicant must demonstrate that the amount of

452 the proposed assessment and all other debt secured by the qualifying property upon
453 execution of the assessment agreement will not exceed 80 percent of the fair market
454 value of the qualifying property as determined by a qualified appraiser, whose appraisal
455 may take into account the expected increase in fair market value of the qualifying
456 property resulting from the proposed qualifying improvements, as completed or as
457 stabilized;

458 (B) An applicant must demonstrate that the amount of the proposed assessment
459 financing will not exceed 25 percent of the fair market value of the qualifying property
460 as determined by a qualified appraiser, which appraisal may take into account the
461 expected increase in fair market value of the qualifying property resulting from the
462 proposed qualifying improvements, as completed or as stabilized; and

463 (C) An applicant must demonstrate that the period or term of the assessment financing
464 will not exceed the weighted average useful life expected for the proposed qualifying
465 improvements. The applicant shall include a statement from a qualified professional
466 indicating the weighted average useful life expected for the proposed qualifying
467 improvements.

468 (b) For approved qualifying improvements, an authority may enter into an assessment
469 agreement with the owner of the qualifying property to pay the cost of qualifying
470 improvements. Prior to entering into an assessment agreement, an applicant shall provide
471 written consent from any holder of a lien, mortgage, or security deed encumbering the
472 qualifying property. Such written consent shall be signed in the sole and absolute
473 discretion of the holder of a prior lien, mortgage, or security deed encumbering the
474 qualifying property and, at a minimum, shall state that the holder of such prior lien,
475 mortgage, or security deed has reviewed the final terms of the financing and the assessment
476 agreement; that the qualifying property may participate in the program; and that the
477 assessment lien shall have the same priority status as a lien for ad valorem taxes of the
478 participating local government.

- 479 (c) Each assessment agreement shall include:
- 480 (1) A description of the qualifying improvements;
- 481 (2) A statement describing the procedures for billing and collection of assessments to be
- 482 imposed by the participating local government pursuant to an intergovernmental
- 483 agreement, which the owner of the qualifying property shall voluntarily request to be
- 484 imposed and shall agree to pay either directly or through an escrow account that may be
- 485 established or increased by a prior lien holder on the qualifying property;
- 486 (3) The total amount of the assessment;
- 487 (4) A schedule of assessment installments requested to be imposed by the participating
- 488 local government;
- 489 (5) Any administrative fees to be paid to the authority or to the participating local
- 490 government;
- 491 (6) The number of years the assessment shall be imposed on the qualifying property; and
- 492 (7) The conditions under which the owner of the qualifying property may prepay and
- 493 permanently satisfy the unpaid portion of the assessment and remove the assessment lien
- 494 from the qualifying property, including a description of the terms of any prepayment
- 495 penalty.
- 496 (d) An assessment agreement may authorize the owner of the qualifying property to
- 497 contract directly, including through lease, power purchase agreement, or other service
- 498 contract, for installing or modifying a qualifying improvement.
- 499 (e) Upon execution of an assessment agreement by an owner of the qualifying property
- 500 and an authority, the authority shall cause the participating local government to execute and
- 501 record a notice of assessment in the land record of the jurisdiction in which the qualifying
- 502 property is located, in accordance with Article 3 of this chapter.
- 503 (f) No authority described in this article shall grant any capital provider the exclusive right
- 504 to provide financing or refinancing on a program-wide basis. It is the intent of this
- 505 subsection to enable owners of qualifying properties to recommend to authorities the

506 capital providers to finance or refinance the qualifying improvements owned or to be
507 owned by such qualifying property owners.

508 36-77-14.

509 A municipal corporation, a county, or any number of counties and municipal corporations
510 shall have the right to activate an authority under this article, notwithstanding the existence
511 of any other development authority within the county or municipal corporation created
512 pursuant to any general law or amendment to the Constitution of this state. Nothing in this
513 article shall be construed as repealing, amending, superseding, or altering the organization
514 of or abridging the powers of such authorities as are now in existence.

515 36-77-15.

516 This article shall be liberally construed to effect the purposes hereof. The offer, sale, or
517 issuance of bonds, notes, or other obligations by an authority shall not be subject to
518 regulation under Chapter 5 of Title 10, the "Georgia Uniform Securities Act of 2008." No
519 notice, proceeding, or publication except those required by this article shall be necessary
520 to the performance of any act authorized by this article, nor shall any such act be subject
521 to referendum.

522 36-77-16.

523 (a) Except as otherwise provided in this Code section, an authority created pursuant to this
524 article shall have perpetual existence.

525 (b) If an authority does not have any outstanding undischarged obligations, the authority
526 may be dissolved as provided in this subsection. If the authority was activated for a single
527 county or municipal corporation as provided in subsection (a) of Code Section 36-77-5, the
528 authority may be dissolved by adoption of an appropriate resolution by the governing body
529 of such county or municipal corporation. If the authority was activated for two or more

530 counties or municipal corporations as provided in subsection (b) of Code Section 36-77-5,
531 the authority may be dissolved by the adoption of appropriate concurrent resolutions by the
532 governing bodies of all such counties or municipal corporations.

533 (c) If an authority previously activated for a single county or municipal corporation is so
534 dissolved, all assets, rights, and undischarged obligations of the former authority shall
535 devolve to the parent county or municipal corporation. If an authority previously activated
536 for two or more counties or municipal corporations is so dissolved, all assets and
537 undischarged obligations of the former authority shall devolve to the parent counties or
538 municipal corporations in such proportions and manner as shall be specified in the
539 appropriate concurrent resolutions dissolving the authority.

540 (d) When an authority is dissolved as provided in this Code section, it shall cease to exist
541 as of the effective date specified in the appropriate resolution or resolutions. The
542 dissolution of an authority, however, shall not prevent the subsequent activation of a new
543 authority under this article for the same counties or municipal corporations, in the same
544 manner as otherwise specified in this article.

545 ARTICLE 3

546 36-77-20.

547 This article shall be known and may be cited as the 'Commercial Property Assessed
548 Conservation, Energy, and Resiliency Cooperation Law.'

549 36-77-21.

550 The General Assembly finds that it is in the public interest and vital to the public welfare
551 of the people of the State of Georgia, and it is declared to be the intent of this article, to
552 authorize municipal corporations and counties to enact ordinances or resolutions to
553 establish commercial property assessed conservation, energy, and resiliency programs and

554 to enter into agreements with commercial property assessed conservation, energy, and
555 resiliency development authorities to carry out such programs, all for the purpose of
556 developing trade, commerce, industry, and employment opportunities. It is found and
557 declared that the assistance provided in this article for the purposes set forth in Article 2
558 of this chapter constitutes a public use and purpose and an essential governmental function
559 for which public moneys may be spent and that the provisions hereinafter enacted are
560 necessary in the public interest.

561 36-77-22.

562 (a) For the purpose of aiding and cooperating in the planning, undertaking, constructing,
563 or carrying out of qualifying improvements located within the area in which it is authorized
564 to act, any municipal corporation or county, upon such terms, with or without
565 consideration, as it may determine, may:

566 (1) Enter into intergovernmental agreements with an authority respecting action to be
567 taken by such municipal corporation or county pursuant to any of the powers granted by
568 this article, including the furnishing of funds or other assistance in connection with
569 qualifying improvements, provided that the obligations of any such municipal corporation
570 or county under any such intergovernmental agreement shall be limited obligations
571 payable solely from assessments;

572 (2) Do any and all things necessary or convenient to aid or cooperate in the planning,
573 undertaking, constructing, and carrying out of qualifying improvements; and

574 (3) Grant or contribute assessments to an authority or agree to take such action.

575 (b) Any participating local government shall have the power to impose, bill, and collect
576 assessments and to pledge and assign assessments to an authority to secure its obligations
577 under an intergovernmental agreement.

578 (c) Pursuant to Code Section 36-77-13, an authority may enter into an assessment
579 agreement with an owner of qualifying property for qualifying improvements, under which

580 such owner voluntarily agrees to the imposition of assessments under this article. After an
581 assessment agreement is entered into, and upon notice from the authority, a participating
582 local government shall have the power to execute and record a notice of assessment on the
583 subject property in the real property records of the relevant county. Such notice of
584 assessment shall contain:

585 (1) The principal amount of the assessment;

586 (2) The legal description of the property;

587 (3) The name of each property owner;

588 (4) A copy of the assessment agreement, including a schedule of assessments to be
589 imposed by the participating local government; and

590 (5) A reference to subsection (d) of this Code section authorizing the creation of an
591 assessment lien to secure an assessment imposed under this article.

592 (d) An assessment imposed by a participating local government under this article:

593 (1) Is a lien against the property on which the assessment is imposed, from the date on
594 which the notice of assessment is recorded until the assessment, interest, and penalties
595 are paid in full; and

596 (2) Has the same priority status as a lien for ad valorem taxes levied by the participating
597 local government.

598 (e) The assessment lien created under this article runs with the land and that portion of the
599 assessment that is not yet due may not be accelerated or eliminated by foreclosure of a
600 property tax lien or other lien.

601 (f) Assessments imposed under this article shall be billed and collected in installments in
602 the same manner, by the same tax collector, and at the same times as ad valorem taxes
603 levied by the participating local government are billed and collected. The tax collector may
604 include any assessment installment as a separate line item on an ad valorem tax bill or may
605 send a separate bill for any assessment installment. All proceeds of assessment
606 installments received by a participating local government that are subject to a pledge

607 created in an intergovernmental agreement shall be remitted to the applicable authority
608 pursuant to the terms of the intergovernmental agreement.

609 (g) A delinquent assessment installment that is unpaid when due shall incur interest and
610 penalties in the same manner as delinquent ad valorem taxes and shall be enforced by the
611 participating local government in the same manner as its ad valorem tax liens. All
612 proceeds from enforcing a delinquent assessment installment and related penalties and
613 interest received by a participating local government that are subject to a pledge created in
614 an intergovernmental agreement shall be remitted to the applicable authority pursuant to
615 the terms of the intergovernmental agreement.

616 (h) Subject to an intergovernmental agreement, a participating local government may
617 charge fees that shall reflect the reasonable costs of the participating local government for
618 its actions under this article and that shall be added to the assessment.

619 (i) Assessments shall not count against the tax limitations contained in paragraph (20) of
620 Code Section 48-5-220 or Code Section 48-5-350.

621 36-77-23.

622 The exercise by a participating local government of the powers granted by this article may
623 be authorized by resolution of the governing body of such participating local government.

624 The resolution shall be adopted by a majority of the members of the governing body
625 present at a meeting of such governing body, which resolution may be adopted at the
626 meeting at which such resolution is introduced. Such a resolution or resolutions shall take
627 effect immediately and need not be laid over or published or posted."

628 **SECTION 2.**

629 This Act shall become effective upon its approval by the Governor or upon its becoming law
630 without such approval.

631

SECTION 3.

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