

**ADOPTED SENATE****SENATE SUBSTITUTE TO HB 905**

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 8 of Chapter 36 of Title 36 of the Official Code of Georgia Annotated,  
2 relating to municipal deannexation, so as to provide for municipal deannexation of property  
3 by application of 100 percent of property owners in certain circumstances; to provide for  
4 procedures, conditions, and limitations; to provide for automatic repeal; to amend Chapter  
5 66 of Title 36 of the Official Code of Georgia Annotated, relating to zoning procedures as  
6 pertaining to counties and municipal corporations, so as to repeal provisions authorizing  
7 administrative officers to exercise zoning powers; to repeal provisions authorizing  
8 quasi-judicial boards and agencies to hear and render decisions on applications for special  
9 administrative permits; to revise definitions; to provide for related matters; to provide for an  
10 effective date and applicability; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Article 8 of Chapter 36 of Title 36 of the Official Code of Georgia Annotated, relating to  
14 municipal deannexation, is amended by adding a new Code section to read as follows:

15 "36-36-135.

16 (a) Authority is granted to the governing authority of any municipality initially chartered  
17 on or after January 1, 2016, and before July 1, 2017, to deannex an area of the existing  
18 corporate limits thereof, in accordance with the procedures provided in this Code section  
19 and in Article 1 of this chapter, upon the written and signed applications of the owners of  
20 all of the land, except the owners of any public street, road, highway, or right of way,  
21 proposed to be deannexed, containing a complete description of the lands to be deannexed;  
22 provided, however, that no more than one parcel of property may be deannexed in one  
23 action. If the proposed deannexation conforms with the requirements of this Code section,  
24 the governing authority of the municipality shall approve such deannexation within 90 days  
25 of the submission of the application unless it finds by a preponderance of the evidence that  
26 the deannexation would be detrimental to the health and safety of the area remaining within  
27 the municipality. In addition, the governing authority of the municipality may deny such  
28 deannexation within 90 days of the submission of the application upon a finding that the  
29 deannexation would be detrimental to any outstanding bonds issued by the municipality or  
30 that the municipality could by law issue.

31 (b) To be eligible for deannexation under the provisions of this Code section, the  
32 application provided for by subsection (a) of this Code section shall show that the  
33 following conditions have been met:

34 (1) The parcel does not exceed ten acres in area;

35 (2) The boundaries of such parcel abut the boundaries of an adjacent municipality, and  
36 if the parcel exceeds two acres in size, more than 50 percent of the boundaries of such  
37 parcel abut the boundaries of an adjacent municipality. A parcel shall be deemed to abut  
38 the municipal boundary if it is otherwise separated from the municipal boundary by the  
39 definite width of:

40 (A) Any street or right of way;

41 (B) Any creek or river; or

- 42 (C) Any right of way of a railroad or other public service corporation;  
 43 (3) The parcel is proposed or utilized for commercial development as a portion of a  
 44 commercial development of which not less than 75 percent of the area is located or  
 45 proposed to be located within the adjacent municipality and which adjoins such parcel;  
 46 (4) The parcel does not provide access from the area proposed or utilized for commercial  
 47 development to a public street or road; and  
 48 (5) The governing authority of the adjacent municipality has adopted an ordinance or  
 49 resolution annexing such parcel conditioned upon and effective immediately upon the  
 50 deannexation of such parcel by the municipality in which it is located.  
 51 (c) Deannexation under the provisions of this Code section shall be permitted for one year  
 52 following the adoption of the conditional ordinance or resolution provided for in  
 53 paragraph (5) of subsection (b) of this Code section. If such deannexation is not completed  
 54 within one year of such adoption, such conditional ordinance or resolution shall be null and  
 55 void and such deannexation under the provisions of this Code section shall require adoption  
 56 of another such ordinance or resolution by the adjacent municipality.  
 57 (d) This Code section shall stand repealed on December 31, 2027."

58 **SECTION 2.**

59 Chapter 66 of Title 36 of the Official Code of Georgia Annotated, relating to zoning  
 60 procedures as pertaining to counties and municipal corporations, is amended by revising  
 61 subsection (b) of Code Section 36-66-2, relating to legislative purpose and local government  
 62 zoning powers, as follows:

63 "(b) Consistent with the minimum procedures required by this chapter, local governments  
 64 may:

- 65 (1) Provide by ordinance or resolution for such administrative ~~officers~~, boards, or  
 66 agencies as may be expedient for the efficient exercise of delegated, quasi-judicial zoning  
 67 powers and to establish procedures and notice requirements for hearings before such

68 quasi-judicial ~~officers~~, boards; or agencies that are consistent with the minimum  
 69 procedures provided for in this chapter to assure due process is afforded the general  
 70 public; and

71 (2) Provide by ordinance or resolution for procedures and requirements in addition to or  
 72 supplemental to those required by this chapter and, where so adopted, thereby establish  
 73 the minimum procedures for such local government's exercise of zoning powers."

74 **SECTION 3.**

75 Said chapter is further amended by revising paragraphs (1.1) and (4) of Code  
 76 Section 36-66-3, relating to definitions, as follows:

77 "(1.1) 'Quasi-judicial ~~officers~~, boards; or agencies' means ~~an officer~~, a board; or agency  
 78 appointed by a local government to exercise delegated, quasi-judicial zoning powers,  
 79 including hearing and rendering decisions on appeals of administrative decisions, ~~by such~~  
 80 ~~officers, boards, or agencies and hearing and rendering decisions on~~ applications for  
 81 variances, ~~special administrative permits~~, special exceptions, conditional use permits, or  
 82 other similar permits not enumerated herein as a zoning decision, pursuant to standards  
 83 for the exercise of such quasi-judicial authority adopted by a local government."

84 "(4) 'Zoning decision' means final legislative action by a local government which results  
 85 in:

- 86 (A) The adoption or repeal of a zoning ordinance;
- 87 (B) The adoption of an amendment to a zoning ordinance which changes the text of the  
 88 zoning ordinance;
- 89 (C) The adoption or denial of an amendment to a zoning ordinance to rezone property  
 90 from one zoning classification to another;
- 91 (D) The adoption or denial of an amendment to a zoning ordinance by a municipal  
 92 local government to zone property to be annexed into the municipality;
- 93 (E) The grant or denial of a permit relating to a special use of property; or

94 (F) The grant or denial of a variance or conditions concurrent and in conjunction with  
95 a decision pursuant to subparagraph (C) or (E) of this paragraph."

96 **SECTION 4.**

97 Said chapter is further amended by revising subsection (g) of Code Section 36-66-4, relating  
98 to hearings on proposed zoning decisions, notice of hearing, nongovernmental initiated  
99 actions, reconsideration of defeated actions, and procedure on zoning, as follows:

100 "(g) A local government delegating decision-making power to a quasi-judicial officer,  
101 board; or agency shall provide for a hearing on each proposed action described in  
102 paragraph (1.1) of Code Section 36-66-3. Notice of such hearing shall be provided at  
103 least 30 days prior to the quasi-judicial hearing, with such notice being made as provided  
104 for in subsection (a) of this Code section and with additional notice being mailed to the  
105 owner of the property that is the subject of the proposed action."

106 **SECTION 5.**

107 Said chapter is further amended by revising subsection (b.1) of Code Section 36-66-5,  
108 relating to adoption of hearing policies and procedures and standards for exercise of zoning  
109 power, as follows:

110 "(b.1) In addition to policies and procedures required by subsection (a) of this Code  
111 section, each local government providing for a quasi-judicial officer's, board's; or agency's  
112 grant, denial, or review of a quasi-judicial matter may adopt specific standards and criteria  
113 governing the exercise of such quasi-judicial decision-making authority, and such standards  
114 shall include the factors by which the local government directs the evaluation of a  
115 quasi-judicial matter. Such standards shall be printed and copies thereof made available  
116 for distribution to the general public."

117

**SECTION 6.**

118 Said chapter is further amended by revising subsection (d) of Code Section 36-66-5.1,  
119 relating to judicial review and procedures, as follows:

120 "(d) An appeal or challenge by an opponent filed pursuant to this chapter shall stay all  
121 legal proceedings in furtherance of the action appealed from or challenged, unless the local  
122 government, ~~officer~~, board, or agency from which ~~or from whom~~ the appeal or challenge  
123 is taken certifies that, by reason of the facts stated in the certificate, a stay would cause  
124 imminent peril to life or property. In such actions, the applicant for the zoning decision or  
125 the quasi-judicial decision shall be a necessary party and shall be named as a defendant in  
126 the action and served in accordance with the requirements of Title 5 or Title 9, as  
127 appropriate."

128

**SECTION 7.**

129 This Act shall become effective July 1, 2024, and Sections 2 through 6 of this Act shall apply  
130 to all zoning and quasi-judicial decisions occurring on and after that date; however, no  
131 zoning or quasi-judicial decision prior to July 1, 2025, shall be rendered invalid or void  
132 because of a local government's failure to implement language in their ordinances  
133 accomplishing the provisions of Code Section 36-66-5.1.

134

**SECTION 8.**

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