

House Bill 318

By: Representatives Reeves of the 99th, Roberts of the 52nd, Leverett of the 123rd, Donatucci of the 105th, Okoye of the 102nd, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 2 of Chapter 6 of Title 5 of the Official Code of Georgia Annotated,
2 relating to appellate practice, and Chapter 66 of Title 36 of the Official Code of Georgia
3 Annotated, relating to zoning procedures as pertaining to counties and municipal
4 corporations, so as to provide for the appeal of superior court decisions on zoning decisions
5 of counties and municipal corporations; to repeal provisions authorizing administrative
6 officers to exercise zoning powers; to repeal provisions authorizing quasi-judicial boards and
7 agencies to hear and render decisions on applications for special administrative permits and
8 conditional permits; to revise definitions; to provide for related matters; to provide for an
9 effective date and applicability; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 2 of Chapter 6 of Title 5 of the Official Code of Georgia Annotated, relating to
13 appellate practice, is amended by revising subsection (a) of Code Section 5-6-34, relating to
14 judgments and rulings deemed directly appealable, procedure for review of judgments,
15 orders, or decisions not subject to direct appeal, scope of review, hearings in criminal cases

H. B. 318

16 involving a capital offense for which death penalty is sought, and appeals involving
17 nonmonetary judgments in child custody cases, as follows:

18 "(a) Appeals may be taken to the Supreme Court and the Court of Appeals from the
19 following judgments and rulings of the superior courts, the Georgia State-wide Business
20 Court, the constitutional city courts, and such other courts or tribunals from which appeals
21 are authorized by the Constitution and laws of this state:

22 (1) All final judgments, that is to say, where the case is no longer pending in the court
23 below, except as provided in Code Section 5-6-35;

24 (2) All judgments involving applications for discharge in bail trover and contempt cases;

25 (3) All judgments or orders directing that an accounting be had;

26 (4) All judgments or orders granting or refusing applications for receivers or for
27 interlocutory or final injunctions;

28 (5) All judgments or orders granting or refusing applications for attachment against
29 fraudulent debtors;

30 (6) Any ruling on a motion which would be dispositive if granted with respect to a
31 defense that the action is barred by Code Section 16-11-173;

32 (7) All judgments or orders granting or refusing to grant mandamus or any other
33 extraordinary remedy, except with respect to temporary restraining orders;

34 (8) All judgments or orders refusing applications for dissolution of corporations created
35 by the superior courts;

36 (9) All judgments or orders sustaining motions to dismiss a caveat to the probate of a
37 will;

38 (10) All judgments or orders entered pursuant to subsection (c) of Code
39 Section 17-10-6.2;

40 (11) All judgments or orders in child custody cases awarding, refusing to change, or
41 modifying child custody or holding or declining to hold persons in contempt of such child
42 custody judgment or orders;

- 43 (12) All judgments or orders entered pursuant to Code Section 35-3-37; ~~and~~
44 (13) All judgments or orders entered pursuant to Code Section 9-11-11.1; ~~and~~
45 (14) All final judgments or orders reviewing a zoning decision, as such term is defined
46 in paragraph (4) of Code Section 36-66-3."

47 **SECTION 2.**

48 Said article is further amended by revising subsection (a) of Code Section 5-6-35, relating
49 to cases requiring application for appeal, requirements for application, exhibits, response,
50 issuance of appellate court order regarding appeal, procedure, supersedeas, jurisdiction of
51 appeal, and appeals involving nonmonetary judgments in custody cases, as follows:

52 "(a) Appeals in the following cases shall be taken as provided in this Code section:

53 (1) Appeals from decisions of the superior courts reviewing decisions of the State Board
54 of Workers' Compensation, the State Board of Education, auditors, state and local
55 administrative agencies, ~~and lower courts, and quasi-judicial decisions of boards or~~
56 agencies of local governments, including those defined in paragraphs (1.1) and (1.2) of
57 Code Section 36-66-3 by petition for review; provided, however, that this provision shall
58 not apply to decisions of the Public Service Commission and probate courts and to cases
59 involving ad valorem taxes and condemnations;

60 (2) Appeals from judgments or orders in divorce, alimony, and other domestic relations
61 cases including, but not limited to, granting or refusing a divorce or temporary or
62 permanent alimony or holding or declining to hold persons in contempt of such alimony
63 judgment or orders;

64 (3) Appeals from cases involving distress or dispossessory warrants in which the only
65 issue to be resolved is the amount of rent due and such amount is \$2,500.00 or less;

66 (4) Appeals from cases involving garnishment or attachment, except as provided in
67 paragraph (5) of subsection (a) of Code Section 5-6-34;

68 (5) Appeals from orders revoking probation;

- 69 (5.1) Appeals from decisions of superior courts reviewing decisions of the Sexual
70 Offender Risk Review Board;
- 71 (5.2) Appeals from decisions of superior courts granting or denying petitions for release
72 pursuant to Code Section 42-1-19;
- 73 (6) Appeals in all actions for damages in which the judgment is \$10,000.00 or less;
- 74 (7) Appeals, when separate from an original appeal, from the denial of an extraordinary
75 motion for new trial;
- 76 (8) Appeals from orders under subsection (d) of Code Section 9-11-60 denying a motion
77 to set aside a judgment or under subsection (e) of Code Section 9-11-60 denying relief
78 upon a complaint in equity to set aside a judgment;
- 79 (9) Appeals from orders granting or denying temporary restraining orders;
- 80 (10) Appeals from awards of attorney's fees or expenses of litigation under Code
81 Section 9-15-14;
- 82 (11) Appeals from decisions of the state courts reviewing decisions of the magistrate
83 courts by de novo proceedings so long as the subject matter is not otherwise subject to
84 a right of direct appeal;
- 85 (12) Appeals from orders terminating parental rights; and
- 86 (13) Appeals from orders under subsection (a) of Code Section 44-14-610 granting or
87 denying an objection to the filing of a lis pendens or granting or denying a motion
88 canceling a lis pendens."

89

SECTION 3.

90 Chapter 66 of Title 36 of the Official Code of Georgia Annotated, relating to zoning
91 procedures as pertaining to counties and municipal corporations, is amended by revising
92 paragraph (1) of subsection (b) of Code Section 36-66-2, relating to legislative purpose and
93 local government zoning powers, and by adding a new paragraph to read as follows:

94 "(1) Provide by ordinance or resolution for such administrative officers, boards, or
95 agencies as may be expedient for the efficient exercise of delegated, quasi-judicial zoning
96 powers and to establish procedures and notice requirements for hearings before such
97 quasi-judicial ~~officers~~, boards; or agencies that are consistent with the minimum
98 procedures provided for in this chapter to assure due process is afforded the general
99 public; and"

100 **SECTION 4.**

101 Said chapter is further amended by revising paragraphs (1.1) and (4) of Code
102 Section 36-66-3, relating to definitions, and by adding a new paragraph to read as follows:

103 "~~(1.1) 'Quasi-judicial officers, boards, or agencies' means an officer, board, or agency~~
104 ~~appointed by a local government to exercise delegated, quasi-judicial zoning powers~~
105 ~~including hearing appeals of administrative decisions by such officers, boards, or~~
106 ~~agencies and hearing and rendering decisions on applications for variances, special~~
107 ~~administrative permits, special exceptions, conditional use permits, or other similar~~
108 ~~permits not enumerated herein as a zoning decision, pursuant to standards for the exercise~~
109 ~~of such quasi-judicial authority adopted by a local government~~ any board or agency
110 designated by ordinance to make quasi-judicial decisions.

111 (1.2) 'Quasi-judicial decision' means a final quasi-judicial action that is the exercise of
112 quasi-judicial land use powers, including hearing appeals of administrative decisions and
113 hearing and rendering decisions on applications for variances, administrative permits, or
114 other similar permits not enumerated herein as a zoning decision, pursuant to standards
115 for the exercise of such quasi-judicial authority adopted by a local government. Such
116 term does not include permits issued or decisions made by administrative staff pursuant
117 to the authority designated by ordinance which contains an express right to appeal to a
118 local government board or authority which is subject to these provisions applicable to
119 quasi-judicial decisions."

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

122 (A) The adoption or repeal of a zoning ordinance;

123 (B) The adoption of an amendment to a zoning ordinance which changes the text of the
124 zoning ordinance;

125 (C) The adoption or denial of an amendment to a zoning ordinance to rezone property
126 from one zoning classification to another;

127 (D) The adoption or denial of an amendment to a zoning ordinance by a municipal
128 local government to zone property to be annexed into the municipality;

129 (E) The grant or denial of ~~a permit relating to~~ an application for a special use of
130 property; or

131 (F) The grant or denial of an application for a variance or the imposition or
132 modification of conditions concurrent and in conjunction with a decision pursuant to
133 subparagraph (C) or (E) of this paragraph, or a subsequent modification to such a
134 variance or condition."

135 **SECTION 5.**

136 Said chapter is further amended by revising subsections (b), (c), (g), and (h) of Code
137 Section 36-66-4, relating to adoption of hearing policies and procedures and standards for
138 exercise of zoning power, as follows:

139 "(b) If a zoning decision of a local government is for the rezoning of property and the
140 rezoning is initiated by a party other than the local government, then:

141 (1) The notice, in addition to the requirements of subsection (a) of this Code section,
142 shall include the location of the property, the present zoning classification of the property,
143 and the proposed zoning classification of the property; and

144 (2) A sign containing information required by local ordinance or resolution shall be
145 placed in a conspicuous location on the property not less than 15 days nor more than 45
146 days prior to the date of the hearing.

147 (c) If the zoning decision of a local government is for the rezoning of property and the
148 amendment to the zoning ordinance to accomplish the rezoning is ~~defeated~~ denied by the
149 local government, then the same property may not again be considered for rezoning until
150 the expiration of at least six months immediately following the ~~defeat~~ denial of the
151 rezoning by the local government or the conclusion of related judicial proceedings."

152 "(g) A local government delegating decision-making power to a quasi-judicial ~~officer~~;
153 board; or agency shall provide for a hearing on each proposed action described in
154 paragraph (1.1) of Code Section 36-66-3. Notice of such hearing shall be provided at
155 least ~~30~~ 15 but not more than 45 days prior to the quasi-judicial hearing, with such notice
156 being made as provided for in subsection (a) of this Code section and with additional notice
157 being mailed to the owner of the property that is the subject of the proposed action.

158 (h)(1) Notwithstanding any other provisions of this chapter to the contrary, when a
159 proposed zoning decision relates to an amendment of the zoning ordinance to revise one
160 or more zoning classifications or definitions relating to single-family residential uses of
161 property so as to authorize multifamily uses of property pursuant to such classification
162 or definitions, or to grant ~~blanket~~ permission, under certain or all circumstances, for
163 property owners to deviate from the existing zoning requirements of a single-family
164 residential zoning, such zoning decision shall be adopted in the following manner:

165 (A) The zoning decision shall be adopted at two regular meetings of the local
166 government making the zoning decision, during a period of ~~not less than 21~~ at least 15
167 but not more than 45 days apart; and

168 (B) Prior to the first meeting provided for in subparagraph (A) of this paragraph, at
169 least two public hearings shall be held on the proposed action. Such public hearings
170 shall be held at least three months and not more than nine months prior to the date of

171 final action on the zoning decision. Furthermore, at least one of the public hearings
172 shall be held between the hours of 5:00 P.M. and 8:00 P.M. The hearings required by
173 this paragraph shall be in addition to any hearing required under subsection (a) of this
174 Code section. The local government shall give notice of such hearing by:

175 (i) Posting notice on each affected premises in the manner prescribed by
176 subsection (b) of this Code section; provided, however, that when more than 500
177 parcels are affected, in which case posting notice is required every 500 feet in the
178 affected area; and

179 (ii) Publishing in a newspaper of general circulation within the territorial boundaries
180 of the local government a notice of each hearing at least 15 days and not more than 45
181 days prior to the date of the hearing.

182 Both the posted notice and the published notice shall include a prominent statement that
183 the proposed zoning decision relates to or will authorize multifamily uses or give blanket
184 permission to the property owner to deviate from the zoning requirements of a
185 single-family residential zoning of property in classification previously relating to
186 single-family residential uses. The published notice shall be at least nine column inches
187 in size and shall not be located in the classified advertising section of the newspaper. The
188 notice shall state that a copy of the proposed amendment is on file in the office of the
189 clerk or the recording officer of the local government and in the office of the clerk of the
190 superior court of the county of the legal situs of the local government for the purpose of
191 examination and inspection by the public. The local government shall furnish anyone,
192 upon written request, a copy of the proposed amendment, at no cost.

193 (2) The provisions of paragraph (1) of this subsection shall also apply to any zoning
194 decisions that provide for the abolition of all single-family residential zoning
195 classifications within the territorial boundaries of a local government or zoning decisions
196 that result in the rezoning of all property zoned for single-family residential uses within

197 the territorial boundaries of a local government to multifamily residential uses of
198 property.

199 (3) This subsection shall not apply to zoning decisions for the rezoning of property from
200 a single-family residential use of property to a multifamily residential use of property
201 when the rezoning is initiated by the owner or authorized agent of the owner of such
202 property or when the local government adopts a zoning ordinance or zoning map
203 applicable to the entire land area under the governance of the local government, as
204 opposed to a subset of parcels of land under the governance of the local government."

205 **SECTION 6.**

206 Said chapter is further amended by revising subsections (b.1) and (c) of Code
207 Section 36-66-5, relating to adoption of hearing policies and procedures and standards for
208 exercise of zoning power, as follows:

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

216 (c) The policies and procedures required by subsection (a) of this Code section and the
217 adoption of standards required by subsection (b) and ~~permitted by~~ subsection (b.1) of this
218 Code section shall be included in and adopted as part of the zoning ordinance. Prior to the
219 adoption of any zoning ordinance enacted on or after July 1, 2022, a local government shall
220 conduct a public hearing on a proposed action which may be advertised and held
221 concurrent with the hearing required by subsection (a) of Code Section 36-66-4 for the
222 adoption of a zoning ordinance. The provisions of subsection (a) of Code Section 36-66-4

223 relating to notices of public hearings for the purposes of that subsection shall also apply to
224 public hearings required by this subsection."

225 **SECTION 7.**

226 Said chapter is further amended by revising paragraph (2) of subsection (a) of Code
227 Section 36-66-5.1, relating to judicial review and procedures, as follows:

228 "(2) Quasi-judicial decisions as described in this chapter ~~and zoning decisions under~~
229 ~~subparagraph (E) of paragraph (4) of Code Section 36-66-3~~ shall be subject to appellate
230 review by the superior court pursuant to its appellate jurisdiction from a lower judicatory
231 body and shall be brought by way of a petition for such review as provided for in Title 5.
232 Such matters shall be reviewed on the record which shall be brought to the superior court
233 as provided in Title 5."

234 **SECTION 8.**

235 This Act shall become effective on July 1, 2025, and shall apply to all zoning and
236 quasi-judicial decisions occurring on and after such date; provided, however, that no zoning
237 or quasi-judicial decision occurring prior to December 31, 2026, shall be rendered invalid
238 or void if a local government fails to implement the provisions set out in Code
239 Section 36-66-5.1.

240 **SECTION 9.**

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