

**AN ORDINANCE TO AMEND THE CITY OF JOHNS CREEK CODE OF
ORDINANCES, APPENDIX – ZONING TO ENSURE COMPLIANCE WITH THE
STATE ZONING PROCEDURES LAW AND THE SUPERIOR AND STATE COURT
APPELLATE PRACTICE ACT**

WHEREAS, the City of Johns Creek is a Georgia municipal corporation and the Mayor and Council is the governing authority of the City; and

WHEREAS, the Mayor and City Council desires to protect the health, safety, and general welfare of its residents through the City’s Zoning Ordinance; and

WHEREAS, the Johns Creek Zoning Ordinance has been prepared and considered in accordance with the Georgia Zoning Procedures Law, O.C.G.A. §36-66; and

WHEREAS, House Bill 1405 and House Bill 916 was adopted by the state legislature to amend the Georgia Zoning Procedures Law and the Superior and State Court Appellate Practice Act, respectively; and

WHEREAS, Georgia municipalities must adopt the new regulations into the local ordinance to ensure compliance before July 1, 2023; and

WHEREAS, the City recognizes the Zoning Ordinance should be amended to ensure compliance with HB 1405 and HB 916.

NOW THEREFORE, the Mayor and Council of the City of Johns Creek hereby ordain that the Appendix A – Zoning, Article III “Definitions”, Article XXII “Appeals” and Article XXVIII “Rezoning and Other Amendment Procedures” are amended as follows:

Article III. DEFINITIONS

Section 3.3.26.Z.

Zoning Decision. Final legislative actions which result in: 1) the adoption or repeal of a Zoning Ordinance; 2) the adoption of an amendment to the Zoning Ordinance; 3) the approval or denial of a rezoning, special use permit, and/or concurrent variances; 4) the adoption or denial of an amendment to the Zoning Ordinance to zone property to be annexed into the City.

Article XXII. APPEALS

Section 22.9. Concurrent Variances.

The Mayor and City Council may consider a concurrent variance from any standards of the Zoning Ordinance which shall be filed simultaneously with rezoning, use permit or zoning modification requests on the same property based on the conceptual plan submitted with the petition for the same agenda. The Planning Commission shall also hear and make recommendations on concurrent variances filed with a rezoning or use permit application. The Mayor and City Council shall consider such concurrent variance requests in accordance with the standards set forth in Section 22.3.1. Public notification shall be in accordance with Section 28.3.

22.9.1. Limitations on Concurrent Variances.

A. The Mayor and City Council may only consider variance requests as part of, or in conjunction with, a rezoning, use permit or modification application.

B. If an application for a variance to the Board of Zoning Appeals duplicates a concurrent variance request denied by the Mayor and City Council, such an application shall not be accepted by the Director of the Department of Community Development prior to the expiration of 6 months from the date of the Mayor and City Council' denial of the variance request. A variance request to the Board of Zoning Appeals cannot be considered simultaneously with the same variance request pending before the Mayor and City Council.

22.9.2. Application for Concurrent Variances. Applications for a concurrent variance shall be submitted to the Director of the Department of Community Development in accordance with the advertised filing deadlines for the Mayor and City Council meetings. A regular variance fee shall be charged and the application shall comply with all advertising and notification requirements specified in Article 28, Rezoning and Other Amendment Procedures. One notice sign may serve for both the rezoning, use permit, zoning modification, and concurrent variance request as long as the sign is marked to indicate all actions which are pending. The variance case file number for each concurrent variance requested shall be included on the rezoning petition.

Section 22.13.9. Public Notification.

A. For applications requiring a public hearing (Primary Variances and Secondary Variances), the Community Development Department shall ensure:

1. A notice of the public hearing is published in a newspaper of general circulation at least 30 days, but no more than 45 days prior to the public hearing at which an application will be heard. The published notice shall contain the time, place and purpose of the hearing and the location of the property if applicable (secondary variances may not always be property specific). Renotification is not required when a petition is deferred;
2. A sign is posted in a conspicuous location on each public street frontage of the subject site, at least 30 days, but not more than 45 days, prior to the public hearing at which an application will be heard;
3. Property that is not posted on the 30th day before the scheduled hearing date will be administratively removed from the agenda. The sign will remain posted on-site until final decision by the appropriate hearing body is taken.
4. If the Board of Zoning Appeals defers a petition for more than 20 days, an updated sign is required to be posted with new hearing dates. If a petition is deferred by the Board of Zoning Appeals for less than 20 days, posting an updated sign is not required.
5. The posted sign shall contain the date, time, place and purpose of the hearing,
6. The posting of a sign is not required when a secondary variance is not requested by the property owner or owner's representative;
7. Notice of the public hearing shall be postmarked 30 days prior to the hearing date and shall be given by regular mail to all property owners within 300 feet of the boundaries of the property who appear on the current tax records of the City of Johns Creek as retrieved by the City's Geographic Information System. Renotification is not required when a petition is deferred by the Mayor and City Council or the Board of Zoning Appeals; and
8. The mailing of public notices is not required when a secondary variance is sought by other than the property owner.

9. A notice shall be mailed to the owner of the property that is the subject of the variance. Such notice is only required when the variance is heard by a quasi-judicial officer, board or agency.

Article XXII. APPEALS

Section 22.13.14. Time Limitation on Appeals to Superior Court.

The decision of the Board of Zoning Appeals is a final decision; therefore, any appeal of such a decision shall be pursued by a petition for review filed with the Superior Court of Fulton County within 30 days of the date of the decision. When a petition for review is filed, the Board of Zoning Appeals and the City must be designated the respondent in the petition for review. The secretary of the Board of Zoning Appeals is authorized to acknowledge service of a copy of the petition for review on behalf of the Board of Zoning Appeals, as respondent. Service upon the city as respondent must be as provided by law.

Upon filing such an appeal, the Clerk of Superior Court shall give immediate notice thereof to the Director of the Community Development Department, and within 30 days from the date of such notice, the Director of Community Development shall cause to be filed with the Clerk of Superior Court a certified copy of the proceedings and the decision of the Board of Zoning Appeals.

Appeals of decisions (Secondary Variances/Interpretation) of the Director of the Community Development Department or the Director of Public Works shall be brought within 30 days from the date of the decision.

Article XXII. REZONING AND OTHER AMENDMENT PROCEDURES

Section 28.2. Land Use Petitions.

Land use petitions may be initiated by the property owner or the Mayor and City Council on forms available from the Department.

No final decision shall be taken on a rezoning affecting the same parcel more often than once every 12 months when the petition is initiated by the property owner.

At any time, the Mayor and City Council may initiate a land use petition on property which was previously rezoned. However, a six-month waiting period from the date of final Mayor and City Council decision is required when a rezoning and/or use permit request was previously denied.

If a petition was previously denied, the owner must demonstrate that the proposed land use petition is significantly different from the previous denial to the satisfaction of the Mayor and City Council before it can be considered for a reinitiation. A significant difference includes, but is not limited to a change in zoning district, use, density, height, buffers or other methods of screening, or other items which were discussed at a public hearing.

Appeals to Superior Court. Any appeal of, or other legal challenge to, a Mayor and City Council's final decision regarding a use permit petition shall be pursued by petition for review filed with the Superior Court of Fulton County within 30 days of the date of the Mayor and City Council's decision. The applicant's petition and all other initial filings with the Superior Court shall be served upon the named defendants/respondents as provided by law.

Upon filing such appeal, the Clerk of Superior Court shall give immediate notice thereof to the Director, and within 30 days from the date of such notice, the Director shall cause to be filed with the Clerk of Superior Court a certified copy of the proceedings before the Mayor and City Council and the decision of the Mayor and City Council.

Section 28.3. Public Hearing and Notice Requirements

Before adopting any change to the Zoning Maps or text of the Zoning Ordinance, the Mayor and City Council shall hold a public hearing following the public hearing by the Planning Commission where a recommendation was made on the petition.

Notice of the Planning Commission and Mayor and City Council hearings shall be given simultaneously at least 15 days but not more than 45 days prior to the date of the Mayor and City Council's public hearing and shall be published in a newspaper of general circulation. Renotification is not required when a petition is deferred by the Mayor and City Council.

A sign shall be posted in a conspicuous location on each public street frontage of the subject property not later than on the 20th day prior to the Planning Commission Hearing.

If the Planning Commission or the Mayor and City Council defers a petition for more than 20 days, an updated sign is required to be posted with new hearing dates. If a petition is deferred for less than 20 days, posting an updated sign is not required.

Notice by regular mail to all property owners within 300 feet of the boundaries of the subject property who appear on the tax records of Fulton County as retrieved by the City's Geographic Information System. The notices shall be mailed a minimum of 15 days prior to the hearing date. Renotification by mail is not required when a petition is deferred.

The published and mailed notices shall contain the time, place, and purpose of the hearing, the location of the property, and the present and proposed zoning classifications and/or requested use permit. The posted sign shall include all of the items required in the published notice except the location of the property. Notice shall not be considered inadequate if the mail is not delivered.

When a proposed zoning decision is related to an amendment of the Zoning Ordinance, initiated by the City of Johns Creek, that revises a) one or more zoning classification or definitions related to single-family residential uses to allow multi-family uses to such single-family residential zoning classification; b) abolish single-family residential classifications; or c) allow properties to deviate from existing zoning requirements in single-family residential zoning district, the City of Johns Creek shall comply with the zoning decision procedures set forth in O.C.G.A. §36-66-4(h)(1). Owner Initiated applications are exempt from the procedures of O.C.G.A. §36-66-4(h)(1).

SO ORDAINED, this _____ day of _____, 2023.

Approved:

John Bradberry, Mayor

ATTEST:

Approved as to Form:

Allison Tarpley, City Clerk

Richard Carothers, City Attorney

(Seal)

House Bill 1405 (AS PASSED HOUSE AND SENATE)

By: Representatives Roberts of the 52nd, Washburn of the 141st, Crowe of the 110th, Dreyer of the 59th, Paris of the 142nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local governments,
2 so as to revise "The Zoning Procedures Law"; to revise provisions related to judicial review
3 of zoning decisions; to revise definitions; to provide for requirements for zoning decisions
4 by boards or agencies using delegated powers; to provide additional notice and hearing
5 provisions for changes to zoning ordinances that revise single-family residential
6 classifications and definitions so as to authorize multifamily residential property uses; to
7 require review procedures for decisions made by boards or agencies using delegated powers;
8 to provide for judicial review of zoning decisions; to require certain designations relating to
9 appeals of quasi-judicial decisions; to provide for related matters; to provide for an effective
10 date and applicability; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Title 36 of the Official Code of Georgia Annotated, relating to local governments, is
14 amended by revising Chapter 66, relating to zoning procedures, as follows:

15 style="text-align:center">"CHAPTER 66

H. B. 1405

16 36-66-1.

17 This chapter shall be known and may be cited as ~~'The Zoning~~ 'Zoning Procedures Law.'

18 36-66-2.

19 (a) While recognizing and confirming the authority of local governments to exercise
20 zoning power within their respective territorial boundaries, it is the intention of this chapter
21 to establish as state policy minimum procedures governing the exercise and means of
22 judicial review of the exercise of that power. The purpose of these minimum procedures
23 is to assure that due process is afforded to the general public when local governments
24 regulate the uses of property through the exercise of the zoning power. Nothing in this
25 chapter shall be construed to invalidate any zoning decision made by a local government
26 prior to ~~January 1, 1986~~ July 1, 2023, or to require a local government to exercise its
27 zoning power.

28 (b) Consistent with the minimum procedures required by this chapter, local governments
29 may:

30 (1) Provide by ordinance or resolution for such administrative officers, ~~bodies~~ boards,
31 or agencies as may be expedient for the efficient exercise of ~~their~~ delegated,
32 quasi-judicial zoning powers and to establish procedures and notice requirements for
33 hearings before such quasi-judicial officers, boards, or agencies that are consistent with
34 the minimum procedures provided for in this chapter to assure due process is afforded the
35 general public; and

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

39 36-66-3.

40 As used in this chapter, the term:

41 (1) 'Local government' means any county or municipality which exercises zoning power
42 within its territorial boundaries.

43 (1.1) 'Quasi-judicial officers, boards, or agencies' means an officer, board, or agency
44 appointed by a local government to exercise delegated, quasi-judicial zoning powers
45 including hearing appeals of administrative decisions by such officers, boards, or
46 agencies and hearing and rendering decisions on applications for variances, special
47 administrative permits, special exceptions, conditional use permits, or other similar
48 permits not enumerated herein as a zoning decision, pursuant to standards for the exercise
49 of such quasi-judicial authority adopted by a local government.

50 (2) 'Territorial boundaries' means, in the case of counties, the unincorporated areas
51 thereof and any area defined in paragraph (5.1) of Code Section 36-70-2, and, in the case
52 of municipalities, the area lying within the corporate limits thereof except any area
53 defined in paragraph (5.1) of Code Section 36-70-2.

54 (3) 'Zoning' means the power of local governments to provide within their respective
55 territorial boundaries for the zoning or districting of property for various uses and the
56 prohibition of other or different uses within such zones or districts and for the regulation
57 of development and the improvement of real estate within such zones or districts in
58 accordance with the uses of property for which such zones or districts were established.

59 (4) 'Zoning decision' means final legislative action by a local government which results
60 in:

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

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

64 (C) The adoption or denial of an amendment to a zoning ordinance ~~which rezones to~~
65 rezone property from one zoning classification to another;

66 (D) The adoption or denial of an amendment to a zoning ordinance by a municipal
67 local government ~~which zones to zone~~ zone property to be annexed into the municipality; ~~or~~

- 68 (E) The grant or denial of a permit relating to a special use of property;
- 69 (F) The grant or denial of a variance or conditions concurrent and in conjunction with
- 70 a decision pursuant to subparagraphs (C) or (E) of this paragraph.
- 71 (5) 'Zoning ordinance' means an ordinance or resolution of a local government
- 72 establishing procedures and zones or districts within its respective territorial boundaries
- 73 which regulate the uses and development standards of property within such zones or
- 74 districts. The term also includes the zoning map adopted in conjunction with a zoning
- 75 ordinance which shows the zones and districts and zoning classifications of property
- 76 therein.

77 36-66-4.

78 (a) A local government taking action resulting in a zoning decision shall provide for a

79 hearing on the proposed action. Where the proposed action includes any combination of

80 zoning decisions under subparagraphs (C), (E), or (F) of paragraph (4) of Code Section

81 36-66-3 for the same property, only one hearing shall be required under this Code Section.

82 At least 15 but not more than 45 days prior to the date of the hearing, the local government

83 shall cause to be published within a newspaper of general circulation within the territorial

84 boundaries of the local government a notice of the hearing. The notice shall state the time,

85 place, and purpose of the hearing.

86 (b) If a zoning decision of a local government is for the rezoning of property and the

87 rezoning is initiated by a party other than the local government, then:

88 (1) The notice, in addition to the requirements of subsection (a) of this Code section,

89 shall include the location of the property, the present zoning classification of the property,

90 and the proposed zoning classification of the property; and

91 (2) A sign containing information required by local ordinance or resolution shall be

92 placed in a conspicuous location on the property not less than 15 days prior to the date

93 of the hearing.

- 94 (c) If the zoning decision of a local government is for the rezoning of property and the
95 amendment to the zoning ordinance to accomplish the rezoning is defeated by the local
96 government, then the same property may not again be considered for rezoning until the
97 expiration of at least six months immediately following the defeat of the rezoning by the
98 local government.
- 99 (d) If the zoning is for property to be annexed into a municipality, then:
- 100 (1) Such municipal local government shall complete the procedures required by this
101 chapter for such zoning, except for the final vote of the municipal governing authority,
102 prior to adoption of the annexation ordinance or resolution or the effective date of any
103 local Act but no sooner than the date the notice of the proposed annexation is provided
104 to the governing authority of the county as required under Code Section 36-36-6;
- 105 (2) The hearing required by subsection (a) of this Code section shall be conducted prior
106 to the annexation of the subject property into the municipality;
- 107 (3) In addition to the other notice requirements of this Code section, the municipality
108 shall cause to be published within a newspaper of general circulation within the territorial
109 boundaries of the county wherein the property to be annexed is located a notice of the
110 hearing as required under the provisions of subsection (a) or (b), as applicable, of this
111 Code section and shall place a sign on the property when required by subsection (b) of
112 this Code section; and
- 113 (4) The zoning classification approved by the municipality following the hearing
114 required by this Code section shall become effective on the later of:
- 115 (A) The date the zoning is approved by the municipality;
- 116 (B) The date that the annexation becomes effective pursuant to Code Section 36-36-2;
- 117 or
- 118 (C) Where a county has interposed an objection pursuant to Code Section 36-36-11,
119 the date provided for in paragraph (8) of subsection (c) of said Code section.

120 (e) A qualified municipality into which property has been annexed may provide, by the
121 adoption of a zoning ordinance, that all annexed property shall be zoned by the
122 municipality, without further action, for the same use for which that property was zoned
123 immediately prior to such annexation. A qualified county which includes property which
124 has been deannexed by a municipality may provide, by the adoption of a zoning ordinance,
125 that all deannexed property shall be zoned by the county, without further action, for the
126 same use for which that property was zoned immediately prior to such deannexation. A
127 municipality shall be a qualified municipality only if the municipality and the county in
128 which is located the property annexed into such municipality have a common zoning
129 ordinance with respect to zoning classifications. A county shall be a qualified county only
130 if that county and the municipality in which was located the property deannexed have a
131 common zoning ordinance with respect to zoning classifications. A zoning ordinance
132 authorized by this subsection shall be adopted in compliance with the other provisions of
133 this chapter. The operation of such ordinance to zone property which is annexed or
134 deannexed shall not require any further action by the adopting municipality, adopting
135 county, or owner of the property annexed or deannexed. Property which is zoned pursuant
136 to this subsection may have such zoning classification changed upon compliance with the
137 other provisions of this chapter.

138 (f) When a proposed zoning decision relates to or will allow the location or relocation of
139 a halfway house, drug rehabilitation center, or other facility for treatment of drug
140 dependency, a public hearing shall be held on the proposed action. Such public hearing
141 shall be held at least six months and not more than nine months prior to the date of final
142 action on the zoning decision. The hearing required by this subsection shall be in addition
143 to any hearing required under subsection (a) of this Code section. The local government
144 shall give notice of such hearing by:

145 (1) Posting notice on the affected premises in the manner prescribed by subsection (b)
146 of this Code section; and

147 (2) Publishing in a newspaper of general circulation within the territorial boundaries of
148 the local government a notice of the hearing at least 15 days and not more than 45 days
149 prior to the date of the hearing.

150 Both the posted notice and the published notice shall include a prominent statement that
151 the proposed zoning decision relates to or will allow the location or relocation of a halfway
152 house, drug rehabilitation center, or other facility for treatment of drug dependency. The
153 published notice shall be at least six column inches in size and shall not be located in the
154 classified advertising section of the newspaper.

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

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

168 (A) The zoning decision shall be adopted at two regular meetings of the local
169 government making the zoning decision, during a period of not less than 21 days apart;
170 and

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

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

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

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

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

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

200 the territorial boundaries of a local government to multifamily residential uses of
201 property.

202 (3) This subsection shall not apply to zoning decisions for the rezoning of property from
203 a single-family residential use of property to a multifamily residential use of property
204 when the rezoning is initiated by the owner or authorized agent of the owner of such
205 property.

206 36-66-5.

207 (a) Local governments shall adopt policies and procedures which govern calling and
208 conducting hearings required by Code Section 36-66-4, and printed copies of such policies
209 and procedures shall be available for distribution to the general public. Such policies and
210 procedures shall specify a minimum time period at hearings on proposed zoning decisions
211 or quasi-judicial decisions for presentation of data, evidence, and opinion by proponents
212 of each zoning decision and an equal minimum time period for presentation by opponents
213 of each proposed zoning decision, such minimum time period to be no less than ten
214 minutes per side.

215 (b) In addition to policies and procedures required by subsection (a) of this Code section,
216 each local government rendering a zoning decision shall adopt standards governing the
217 exercise of the zoning power, and such standards may include any factors which the local
218 government finds relevant in balancing the interest in promoting the public health, safety,
219 morality, or general welfare against the right to the unrestricted use of property. Such
220 standards shall be printed and copies thereof shall be available for distribution to the
221 general public.

222 (b.1) In addition to policies and procedures required by subsection (a) of this Code section,
223 each local government providing for a quasi-judicial officer's, board's, or agency's grant,
224 denial, or review of a quasi-judicial matter may adopt specific standards and criteria
225 governing the exercise of such quasi-judicial decision-making authority, and such standards

226 shall include the factors by which the local government directs the evaluation of a
227 quasi-judicial matter. Such standards shall be printed and copies thereof made available
228 for distribution to the general public.

229 (c) The policies and procedures required by subsection (a) of this Code section and the
230 adoption of standards required by subsection (b) and permitted by subsection (b.1) of this
231 Code section may shall be included in and adopted as part of the zoning ordinance. Prior
232 to the adoption of any zoning ordinance enacted on or after ~~January 1, 1986~~ July 1, 2022,
233 a local government shall conduct a public hearing on a proposed action which may be
234 advertised and held concurrent with the hearing required by subsection (a) of Code Section
235 36-66-4 for the adoption of a zoning ordinance. The provisions of subsection (a) of Code
236 Section 36-66-4 relating to notices of public hearings for the purposes of that subsection
237 shall also apply to public hearings required by this subsection.

238 36-66-5.1.

239 (a) To ensure that the general public is afforded due process in an orderly way to petition
240 the courts for review of a local government's exercise of zoning, administrative, or
241 quasi-judicial powers as guaranteed by Article I, Section I, Paragraphs IX and XII of the
242 Constitution, the General Assembly, pursuant to its authority under Article VI, Section IV,
243 Paragraph I of the Constitution, provides the following mechanism by which each of the
244 powers described in this chapter may be reviewed by the superior court of the county
245 wherein such property is located:

246 (1) Zoning decisions as described in this chapter, being legislative in nature, shall be
247 subject to direct constitutional challenge regarding the validity of maintaining the existing
248 zoning on the subject property or the validity of conditions or an interim zoning category
249 other than what was requested in the superior court pursuant to its original jurisdiction
250 over declaratory judgments pursuant to Chapter 4 of Title 9 and equity jurisdiction under
251 Title 23. Such challenges shall be by way of a de novo review by the superior court

252 wherein such review brings up the whole record from the local government and all
253 competent evidence shall be admissible in the trial thereof, whether adduced in a local
254 government process or not and employing the presumption that a governmental zoning
255 decision is valid and can be overcome substantively by a petitioner showing by clear and
256 convincing evidence that the zoning classification is a significant detriment to the
257 petitioner and is insubstantially related to the public health, safety, morality, or general
258 welfare; or

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

265 (b) All such challenges or appeals shall be brought within 30 days of the written decision
266 of the challenged or appealed action.

267 (c) To ensure that the citizens of this state are not unnecessarily burdened by the review
268 process as a mechanism of appeal, local governments shall designate by ordinance or
269 resolution:

270 (1) The officer of the quasi-judicial board or agency who shall have authority, without
271 additional board or agency action, to approve or issue any form or certificate necessary
272 to perfect the petition described in Title 5 for review of lower judicatory bodies and upon
273 whom service of such petition may be effected or accepted on behalf of the lower
274 judicatory board or agency, during normal business hours, at the regular offices of the
275 local government; and

276 (2) The elected official or his or designee who shall have authority to accept service and
277 upon whom service of an appeal of a quasi-judicial decision may be effected or accepted

278 on behalf of the local governing authority, during normal business hours, at the regular
279 offices of the local government.

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

288 36-66-6.

289 (a) In any local government which has established a planning department or other similar
290 agency charged with the duty of reviewing zoning proposals, such planning department or
291 other agency shall, with respect to each proposed zoning decision involving land that is
292 adjacent to or within 3,000 feet of any military base or military installation or within
293 the 3,000 foot Clear Zone and Accident Prevention Zones Numbers I and II as prescribed
294 in the definition of an Air Installation Compatible Use Zone of a military airport,
295 investigate and make a recommendation with respect to each of the matters enumerated in
296 subsection (b) of this Code section, in addition to any other duties with which the planning
297 department or agency is charged by the local government. The planning department or
298 other agency shall request from the commander of such military base, military installation,
299 or military airport a written recommendation and supporting facts relating to the use of the
300 land being considered in the proposed zoning decision at least 30 days prior to the hearing
301 required by subsection (a) of Code Section 36-66-4. If the base commander does not
302 submit a response to such request by the date of the public hearing, there shall be a
303 presumption that the proposed zoning decision will not have any adverse effect relative to

304 the matters specified in subsection (b) of this Code section. Any such information provided
305 shall become a part of the public record.

306 (b) The matters with which the planning department or agency shall be required to make
307 such investigation and recommendation shall be:

308 (1) Whether the zoning proposal will permit a use that is suitable in view of the use of
309 adjacent or nearby property within 3,000 feet of a military base, military installation, or
310 military airport;

311 (2) Whether the zoning proposal will adversely affect the existing use or usability of
312 nearby property within 3,000 feet of a military base, military installation, or military
313 airport;

314 (3) Whether the property to be affected by the zoning proposal has a reasonable
315 economic use as currently zoned;

316 (4) Whether the zoning proposal will result in a use which will or could cause a safety
317 concern with respect to excessive or burdensome use of existing streets, transportation
318 facilities, utilities, or schools due to the use of nearby property as a military base, military
319 installation, or military airport;

320 (5) If the local government has an adopted land use plan, whether the zoning proposal
321 is in conformity with the policy and intent of the land use plan; and

322 (6) Whether there are other existing or changing conditions affecting the use of the
323 nearby property as a military base, military installation, or military airport which give
324 supporting grounds for either approval or disapproval of the zoning proposal."

325 **SECTION 2.**

326 This Act shall become effective on July 1, 2022, and shall apply to all zoning and
327 quasi-judicial decisions occurring on and after that date; however, no zoning or quasi-judicial
328 decision prior to July 1, 2023, shall be rendered invalid or void because of a local
329 government's failure to implement language in their ordinances accomplishing the provisions
330 of Code Section 36-66-5.1.

331 **SECTION 3.**

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

House Bill 916 (AS PASSED HOUSE AND SENATE)

By: Representatives Leverett of the 33rd and Wilensky of the 79th

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, so
2 as to provide for a unified procedure for appealing decisions of a lower judicatory to a
3 superior or state court; to provide for a short title; to provide for legislative findings and
4 intent; to provide for definitions; to provide for superior and state court appellate jurisdiction
5 and related exceptions; to provide for the preemption of certain laws; to provide for a
6 uniform appellate procedure to superior and state courts; to clarify the standard of review;
7 to provide for appeals to a jury; to provide for the permissibility of equitable practices and
8 procedures not prescribed; to provide for standardized general procedures for appeals to
9 superior and state court; to provide for petitions for review, responses, replies, and
10 amendments thereto; to provide for the management of court proceedings and other related
11 matters; to provide for service of process; to provide for deadline extensions; to provide for
12 limited grounds for dismissal; to provide for transfer when venue or jurisdiction is improper;
13 to provide for the record on appeal; to provide for transmission of the record; to provide for
14 notice of a petitioner confined to jail; to provide for remand; to provide for the payment of
15 costs and related exceptions; to provide for bonds and related security; to provide for
16 procedures after review; to provide for dismissal or withdrawal and the effects thereof; to
17 provide for damages for frivolous appeals and defenses in civil cases; to provide for the
18 recovery of costs; to repeal and reserve Chapter 4 of said title, relating to certiorari to

H. B. 916

- 1 -

19 superior court; to amend various titles of the Official Code of Georgia Annotated, so as to
20 provide for conforming changes; to correct cross-references and remove obsolete or improper
21 references; to provide for related matters; to provide for an effective date and applicability;
22 to repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

24 **PART I.**
25 **SECTION 1-1.**

26 Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is amended
27 by repealing in its entirety Chapter 3, relating to appeals to superior or state court, and
28 enacting a new Chapter 3 to read as follows:

29 "CHAPTER 3

30 5-3-1.

31 This chapter shall be known and may be cited as the 'Superior and State Court Appellate
32 Practice Act.'

33 5-3-2.

34 (a) The General Assembly finds that many appeals from a lower judicatory to a superior
35 or state court result in dismissal on complex procedural grounds and not a decision on the
36 merits.

37 (b) It is the intent of the General Assembly in enacting this chapter to:

38 (1) Provide a single, modern, and uniform procedure called a 'petition for review' for
39 appealing a decision made by a lower judicatory to a superior or state court, as authorized
40 by the laws and the Constitution of this state;

41 (2) Increase access to justice through the greater resolution of appeals on the basis of
42 substantive issues rather than on complex procedural grounds; and

43 (3) Retain the limited appellate jurisdiction of state courts prescribed in the Constitution
44 of Georgia and Code sections outside of this chapter.

45 (c) Consistent with the laws and the Constitutions of Georgia and the United States, the
46 courts shall:

47 (1) Construe the provisions of this chapter broadly so as to render decisions based on the
48 merits of each case and avoid dismissal of any case or refusal to consider any points
49 raised therein unless such dismissal or refusal is expressly required by statute;

50 (2) Construe any petition for review filed under this chapter according to its substance,
51 merit, and function and not merely its style, form, or title; and

52 (3) Not construe this chapter to expand the limited appellate jurisdiction of state courts
53 prescribed in the Constitution of Georgia and Code sections outside of this chapter.

54 5-3-3.

55 As used in this chapter, the term:

56 (1) 'Article 6 probate court' means a probate court with expanded jurisdiction as provided
57 in Article 6 of Chapter 9 of Title 15.

58 (2) 'Clerk' means a clerk of court or an individual who acts as the functional equivalent
59 of a clerk of court if a lower judicatory does not have an official clerk of court.

60 (3) 'Decision' means any formal or informal adjudication, decision, determination,
61 judgment, order, ruling, or other act of a judicatory that is judicial or quasi-judicial in
62 nature.

63 (4) 'Final judgment' means a decision of a lower judicatory in a case that is no longer
64 pending in a lower judicatory in which a petitioner has:

65 (A) Exhausted all appeals or administrative remedies available in the lower judicatory;
66 and

67 (B) Satisfied all conditions precedent to appeal provided by law, including, but not
68 limited to, the conditions provided for in Code Section 33-2-26.

69 (5) 'Judicatory' means any court, official, board, tribunal, commission, municipal or
70 county authority, council, or similar body exercising judicial or quasi-judicial powers
71 authorized by law. The term 'judicatory' shall include an arbitrator, administrative law
72 judge, mediator, or similar adjudicator authorized by law to act on behalf or at the request
73 of any public official or body.

74 (6) 'Lower judicatory' means any judicatory:

75 (A) Inferior in authority to the superior and state courts; and

76 (B) Subject to the appellate jurisdiction of the superior or state courts as provided by
77 the laws and the Constitution of this state.

78 (7) 'Perfect' or 'perfected' means to take all legal steps needed to complete service of
79 process.

80 (8) 'Person' means an individual, corporation, association, partnership, other
81 organization, or other entity.

82 (9) 'Petition for review' means any request for review of a final judgment filed in a
83 reviewing court by a petitioner, including, but not limited to, any request for review
84 formerly titled as a petition for writ of certiorari, petition for writ of mandamus, petition
85 for writ of prohibition, or notice of appeal.

86 (10) 'Reporting' shall have the same meaning as the term 'court reporting' as defined in
87 paragraph (4) of Code Section 15-14-22.

88 (11) 'Respondent' means a person who is adverse to the petitioner and a party to the
89 dispute underlying the final judgment rendered by the lower judicatory. Except for

90 reasons other than having rendered the final judgment under review, the term 'respondent'
91 shall not include any judge, official, or member of the lower judiciary that rendered the
92 final judgment under review. If there is no party adverse to the petitioner, the respondent
93 shall be:

94 (A) For quasi-judicial decisions rendered by a state official, board, tribunal,
95 commission, authority, council, or similar body, the respondent shall be the State of
96 Georgia;

97 (B) For quasi-judicial decisions rendered by a municipal official, board, tribunal,
98 commission, authority, council, or similar body, the respondent shall be the
99 corresponding municipality; and

100 (C) For quasi-judicial decisions rendered by a county or local school system official,
101 board, tribunal, commission, authority, council, or similar body, the respondent shall
102 be the corresponding county or local school system.

103 (12) 'Reviewing court' means a superior or state court reviewing a final judgment
104 pursuant to this chapter.

105 5-3-4.

106 (a) Except as provided in subsection (b) of this Code section, the superior and state courts
107 shall have appellate jurisdiction pursuant to this chapter over a final judgment of a lower
108 judiciary.

109 (b) The superior courts shall not have appellate jurisdiction pursuant to this chapter over
110 any state court. The state courts shall not have appellate jurisdiction pursuant to this
111 chapter over any superior court. In addition, neither a superior court nor a state court shall
112 have appellate jurisdiction pursuant to this chapter over the following courts or matters:

113 (1) Juvenile courts;

114 (2) The Municipal Court of Columbus;

115 (3) The Civil Court of Macon-Bibb County;

- 116 (4) The Civil Court of Richmond County;
117 (5) The Georgia State-wide Business Court;
118 (6) A civil case in an Article 6 probate court;
119 (7) An order appointing a temporary administrator; and
120 (8) Any other court from which an appeal directly to the Court of Appeals or the
121 Supreme Court is authorized.

122 (c) Except as provided in subsection (g) of Code Section 5-3-17, this chapter shall preempt
123 any local law or any locally enacted law, ordinance, regulation, rule, or procedure in
124 conflict with this chapter governing an appeal of a final judgment to a reviewing court.

125 5-3-5.

126 (a) Except as provided in subsection (b) of this Code section or otherwise provided by law,
127 a reviewing court shall:

- 128 (1) Review only matters raised in the record of the proceeding in the lower judiciary;
129 (2) Accept the findings of fact and credibility of the lower judiciary unless they are
130 clearly erroneous;
131 (3) Accept a decision regarding an issue within the sound discretion of the lower
132 judiciary unless such a decision was an abuse of discretion;
133 (4) Determine whether the final judgment was sustained by sufficient evidence; and
134 (5) Review questions of law de novo.

135 (b) A reviewing court shall conduct a de novo proceeding under this chapter if a de novo
136 proceeding is specified by law. Cases reviewed under this subsection shall be heard by the
137 reviewing court without a jury unless a jury trial is ordered by the reviewing court and
138 authorized by law.

139 (c) A demand for a jury trial under this chapter shall be filed in the reviewing court
140 within 30 days after filing a petition for review.

141 5-3-6.

142 (a) A petitioner invokes the appellate jurisdiction of a reviewing court under this chapter
143 by filing a petition for review with the clerk of the reviewing court.

144 (b) The consent of the lower judicatory shall not be required for the filing of a petition for
145 review.

146 5-3-7.

147 (a) Except as otherwise prescribed by law, superior and state court appellate practices and
148 procedures not prescribed in this chapter shall be governed by the applicable superior or
149 state court rules and orders of the reviewing court not in conflict with this chapter.

150 (b) Except as otherwise provided in paragraph (2) of subsection (g) of Code
151 Section 48-5-311, a petitioner shall file a petition for review with the clerk of the reviewing
152 court within 30 days after the final judgment of the lower judicatory is:

153 (1) Signed and notice of the final judgment has been provided to all parties, if the lower
154 judicatory does not have a clerk; or

155 (2) Filed or recorded, whichever first occurs, if the lower judicatory has a clerk.

156 (c) Except as provided in subsection (d) of this Code section, all parties to the proceedings
157 in the lower judicatory are parties in the reviewing court.

158 (d) Except for reasons other than having rendered the final judgment under review, any
159 judge, official, or member of a lower judicatory that rendered the final judgment under
160 review shall not be a party, defendant, or respondent in a petition for review. To correct
161 such error, the reviewing court shall:

162 (1) Require a petitioner to amend the petition for review; or

163 (2) Upon the reviewing court's own motion, order the erroneously named judge, official,
164 or member of a lower judicatory dismissed.

165 (e) Except as otherwise required by law, a petition for review shall contain in substantially
166 similar form the following:

- 167 (1) A caption stating the name of the petitioner and the name of the respondent, if any;
168 (2) The title 'PETITION FOR REVIEW TO SUPERIOR COURT' or 'PETITION FOR
169 REVIEW TO STATE COURT' below the caption;
170 (3) A body that includes the following:
171 (A) The statement: '(name of petitioner), the petitioner named above, petitions the
172 (Superior or State) Court of (name of county) for review of the final judgment rendered
173 by (name of lower judicatory) on (date) with the following case number designated by
174 the lower judicatory: (lower judicatory case number).';
175 (B) A concise statement of the final judgment being appealed;
176 (C) A brief statement describing any existing recording, transcript, or other record of
177 evidence in the lower judicatory; and
178 (D) If the case before the lower judicatory is a criminal case, then a brief statement of
179 the offense and sentence prescribed by the lower judicatory, if any, including whether
180 the petitioner is confined in jail or otherwise incarcerated pending the appeal; and
181 (4) The name, mailing address, telephone number, and email address, if any, of:
182 (A) The attorney for the petitioner; or
183 (B) The petitioner, if the petitioner is not represented by an attorney.
184 (f) Failure to provide the information required by subsection (e) of this Code section shall
185 be an amendable defect, and such defect shall be cured as directed by the reviewing court.
186 (g) The petitioner shall serve a copy of the petition for review on all parties within five
187 days after filing the petition for review in the reviewing court.
188 (h) The petitioner shall serve the lower judicatory with a copy of the filed petition for
189 review within five days after filing the petition for review in the reviewing court. The copy
190 of the petition for review served on the lower judicatory shall contain the case number
191 assigned by the reviewing court. If the lower judicatory has a clerk, the copy of the petition
192 for review shall be deemed served on the lower judicatory by service of a copy of the
193 petition for review on the clerk.

194 5-3-8.

195 (a) The respondent shall file a response to a petition for review with the reviewing court
196 within 30 days after being served with a copy of the petition for review. If a de novo
197 proceeding is required as specified in subsection (b) of Code Section 5-3-5, the response
198 shall include any counterclaim, cross appeal, defense, or third-party claim asserted by the
199 respondent.

200 (b) A cross appeal or counterclaim shall not require a response, unless one is required by
201 order of the court, and shall automatically stand denied.

202 (c) A reply, if any, shall be filed by the petitioner within 30 days after being served with
203 a copy of the respondent's response. If a de novo proceeding is required as provided in
204 subsection (b) of Code Section 5-3-5, the petitioner's reply shall include any counterclaim,
205 cross appeal, defense, or third-party claim asserted by the petitioner.

206 (d) A party may amend a petition for review, response, or reply under this chapter as a
207 matter of course and without leave of the reviewing court at any time before the entry of
208 a pretrial order or before a hearing on the merits is held by the reviewing court, whichever
209 shall first occur. Thereafter, a party may amend a petition for review, response, or reply
210 only by leave of the reviewing court or by written consent of each adverse party. Such
211 leave shall be freely given by the reviewing court if justice so requires.

212 (e) A party shall serve a copy of any pleading filed with the reviewing court on all parties
213 to the proceeding.

214 5-3-9.

215 (a) The reviewing court may issue such orders and writs as may be necessary to aid in its
216 jurisdiction and manage court proceedings under this chapter.

217 (b) The reviewing court shall grant continuances and enter such other orders as may be
218 necessary to permit a just and expeditious review of a petition for review.

219 (c) After a petition for review is filed in the reviewing court, the reviewing court shall:

220 (1) Establish filing deadlines for any necessary documents; and
221 (2) Schedule any necessary proceedings or hearings.
222 (d) If there is more than one party plaintiff or party defendant in the case before the lower
223 judicatory, any one or more of such parties may file a petition for review pursuant to this
224 chapter regardless of whether other parties join in or consent to such petition for review;
225 provided, however, that upon appeal, all parties in the case before the lower judicatory shall
226 be bound by the final decision of the reviewing court; and provided, further, that, if
227 damages are awarded upon such appeal, the damages shall only be recovered against the
228 party appealing and the appealing party's security, if any, and not against a party failing or
229 refusing to appeal.
230 (e) The monetary limitation provided for in paragraph (5) of subsection (a) of Code
231 Section 15-10-2 shall not apply to any decision rendered by the reviewing court under this
232 chapter.

233 5-3-10.

234 (a) Except as otherwise provided by law, service of process under this chapter shall be
235 made in the following manner:

236 (1) A party's attorney or agent authorized to receive service shall be served with any
237 document, unless:

238 (A) Direct service on a party is ordered by the reviewing court; or

239 (B) A specific manner of service is otherwise required by law;

240 (2) Service of any document shall be made in person, by mail, or electronically if consent
241 to electronic service is given as provided in subsection (b) of this Code section;

242 (3) Proof of service shall be shown by:

243 (A) Acknowledgment of the attorney or party served; or

244 (B) A certificate of service from the attorney, party, or other person perfecting service;

245 (4) The certificate of service provided for in this subsection shall:

- 246 (A) Be attached to the original of the document to be served;
247 (B) Be taken as prima-facie proof of service; and
248 (C) Read substantially as follows: 'I do certify that (number of copies) of the attached
249 document(s) have been furnished to (name of party served) by (delivery, mail, or email)
250 on (date delivered, mailed, or emailed)';
- 251 (5) Service of any document may be perfected either before or after filing such service
252 with the clerk. If service is made by mail, it shall be deemed perfected on the day it was
253 deposited in the mail. If service is perfected by mail, three days shall be added to any
254 deadline required for a response, to allow for mailing;
- 255 (6) If the address of any party is unknown and the party is not represented by an attorney
256 of record, service may be perfected on the party by mail directed to the last known
257 address of the party; and
- 258 (7) Service may be waived or acknowledged either before or after filing.
- 259 (b) A person may consent to being served with pleadings electronically in a petition for
260 review as provided for in subsection (f) of Code Section 9-11-5.
- 261 5-3-11.
- 262 (a) Any party requesting a filing deadline extension from the reviewing court shall do so
263 before the expiration of the existing filing period in effect, whether prescribed or extended.
- 264 (b) The reviewing court shall only grant one filing deadline extension not to exceed 30
265 days for the filing of a petition for review under subsection (b) of Code Section 5-3-7. The
266 reviewing court may grant such filing deadline extensions for other documents as may be
267 necessary to permit a just and expeditious review of a petition for review.
- 268 (c) The clerk of the reviewing court shall promptly serve all parties and the clerk of the
269 lower judicatory with a copy of:
- 270 (1) Any extension granted under this Code section; and
271 (2) The corresponding motion filed to request such extension.

272 5-3-12.

273 (a) Except for a final decision on the merits, a reviewing court shall not dismiss a petition
274 for review unless the reviewing court finds one or more of the following:

275 (1) The petition for review was not filed within the time prescribed or extended;

276 (2) The reviewing court lacks jurisdiction;

277 (3) The question presented by the petitioner is moot;

278 (4) The absence of a justiciable controversy;

279 (5) The failure of a petitioner to prosecute; or

280 (6) The failure of a petitioner to comply with the provisions of this chapter or any court
281 rule or order.

282 (b) The reviewing court shall not immediately dismiss a petition for review because of any
283 defect in the petition for review, bond, or affidavit of indigence, or because of the failure
284 of the lower judicatory to transmit any document.

285 (c) The reviewing court shall give the petitioner a reasonable opportunity to amend a
286 petition for review, bond, or affidavit of indigence for the purpose of curing any defect.
287 The reviewing court may impose such filing deadlines for amendments under this
288 subsection as may be necessary to permit a just and expeditious review of a petition for
289 review.

290 (d) The reviewing court shall not immediately dismiss a petition for review for failure to
291 perfect service on any party if the party obligated to perfect service shows due diligence
292 in attempting to timely perfect service.

293 5-3-13.

294 (a) A petitioner shall file a petition for review in the superior or state court where venue
295 and jurisdiction are proper as prescribed by the laws and the Constitution of this state.

296 (b) Upon a finding by a lower judicatory, a reviewing court, the Court of Appeals, or the
297 Supreme Court that venue is improper or jurisdiction is lacking for any petition for review,

298 the clerk of the applicable court shall promptly transfer a petition for review to a court
299 where venue and jurisdiction are proper in accordance with the rules and procedures
300 applicable to the transferring court.

301 5-3-14.

302 (a) In civil cases and misdemeanor criminal cases, a lower judiciary may require the
303 audio or video recording, reporting, or transcribing of the evidence and proceedings in the
304 lower judiciary on terms prescribed by the lower judiciary.

305 (b) Except as provided in subsection (c) of this Code section, in civil cases where a
306 transcript of the evidence and proceedings in the lower judiciary has not been prepared
307 and a transcript is necessary to conduct a review under this chapter, the petitioner shall
308 prepare a transcript at the petitioner's expense from recollection or otherwise only if the
309 petitioner is financially able to pay the costs of transcribing.

310 (c) In civil cases, a lower judiciary may require the parties to share the cost of reporting
311 or transcribing the evidence and proceedings in the lower judiciary; provided, however,
312 that a lower judiciary shall not require a party to share such costs if that party is
313 financially unable to pay. If the lower judiciary determines that any or all of the parties
314 are financially unable to pay such costs, the lower judiciary, in its discretion, may
315 authorize the trial of the case to go unreported.

316 (d) Any party shall have the right to have any criminal or civil case in a lower judiciary
317 reported or transcribed at the party's own expense.

318 (e) If a proceeding in a lower judiciary is reported, the court reporter shall report and
319 transcribe all:

320 (1) Motions;

321 (2) Colloquies;

322 (3) Objections;

323 (4) Rulings;

- 324 (5) Evidence, whether admitted or stricken on objection or otherwise;
325 (6) Copies or summaries of all documentary evidence;
326 (7) The charge of the court; and
327 (8) Other proceedings before the court.
- 328 (f) If a proceeding in a lower judiciary is reported, the lower judiciary shall ensure that
329 all matters listed in subsection (e) of this Code section are included in any transcript or
330 record transferred to the reviewing court.
- 331 (g) If matters in a lower judiciary are not reported, such as objections to oral argument,
332 misconduct of the jury, or other like instances, and a party requests a transcript of such
333 matters, the lower judiciary shall order a transcript be prepared from recollection or
334 otherwise and included as a part of the record transferred to the reviewing court.
- 335 (h) A transcript of the proceedings in a lower judiciary shall not be reduced to narrative
336 form unless all parties agree; but if the transcript of the evidence and proceedings is not
337 available and the transcript is prepared from recollection, such a transcript may be prepared
338 in narrative form.
- 339 (i) If a court reporter transcribes the evidence and proceedings in the lower judiciary, the
340 court reporter shall complete the transcript and file the original and one copy of the
341 transcript with the clerk of the lower judiciary along with the court reporter's certificate
342 attesting to its correctness. Upon filing of the transcript by the court reporter, the transcript
343 shall become part of the record.
- 344 (j) The clerk of the lower judiciary shall ensure that a true copy of the transcript of the
345 evidence and proceedings in the lower judiciary is included in the record transmitted to
346 the reviewing court under this chapter.
- 347 (k) If the parties cannot agree regarding whether the transcript or record truly or fully
348 discloses what transpired in the proceedings in the lower judiciary, the lower judiciary
349 shall schedule a hearing with notice to all parties to resolve the dispute and conform the
350 record to the truth.

351 (l) A transcript of evidence and proceedings that is prepared from recollection with an
352 attached statement that all parties agree to its contents shall carry the same authority as a
353 transcript prepared by a court reporter; but if the parties cannot agree regarding the
354 correctness of a transcript prepared from recollection, the lower judicatory shall decide
355 whether it is correct. If the lower judicatory is unable to recall what transpired in the case
356 under review, the lower judicatory shall issue a decision stating that fact. The lower
357 judicatory's decision under this subsection is final and not subject to review.

358 (m) If anything material to any party is omitted from or misstated in the record under
359 review, the parties may stipulate, or the lower judicatory may direct, that the omission or
360 misstatement be corrected before or after the record is transmitted to the reviewing court.
361 The clerk of the lower judicatory shall promptly transmit to the reviewing court any
362 correction of the record made after the record is transmitted to the reviewing court.

363 (n) The lower judicatory may transmit a supplemental record to the reviewing court.

364 (o) The lower judicatory or the reviewing court may order the clerk of the lower judicatory
365 to send up any original documents, exhibits, or other items in the case under review. The
366 reviewing court shall return such original documents, exhibits, or other items to the lower
367 judicatory after the final disposition of the case under review.

368 (p) If a lower judicatory does not allow a party to file a document for inclusion in the
369 record for a petition for review, such party may file the document in the reviewing court
370 with an attached notation of the lower judicatory's disallowance. In such case, the
371 document shall become part of the record under review.

372 (q) If all parties agree, in lieu of a transcript of the evidence and proceedings in the lower
373 judicatory, they may file in the lower judicatory a stipulation of the case showing how the
374 question under review arose and was decided along with a statement of facts. In such
375 cases, the parties shall provide sufficient information in the stipulation and statement of
376 facts to enable the reviewing court to conduct a review. Such stipulation and statement of

377 facts must be approved by the lower judiciary prior to transmission to the reviewing court
378 as part of the record.

379 5-3-15.

380 (a) Upon being served with a copy of the petition for review and unless otherwise ordered
381 by the reviewing court, the clerk of the lower judiciary shall retain the original of the
382 corresponding record and transmit a true copy of the record to the reviewing court
383 within 30 days, or within fewer days if otherwise required by law, after the copy of the
384 petition for review is served on the clerk of the lower judiciary.

385 (b) If known or reasonably believed to be the case, the clerk in the lower judiciary shall
386 notify the reviewing court if a petitioner in a criminal case is confined in jail or otherwise
387 incarcerated at the time the record is transmitted from the lower judiciary. Such notice
388 shall accompany the record transmitted from the lower judiciary.

389 (c) If no record is available for transmission to the reviewing court, the clerk of the lower
390 judiciary shall notify the lower judiciary accordingly so that further action may be taken
391 pursuant to this chapter.

392 (d) If the clerk of the lower judiciary does not transmit the record to the reviewing court
393 within 30 days after being served with a copy of the petition for review, the petitioner shall
394 notify the reviewing court, which then shall order the clerk of the lower judiciary to
395 promptly transmit the record or state the reason for the delay.

396 5-3-16.

397 (a) The payment of all costs accrued in a lower judiciary shall not be required in order
398 to file a petition for review under this chapter.

399 (b) Except to the extent prohibited by law, no petition for review shall be heard in a
400 reviewing court unless the petitioner:

- 401 (1) Pays all unpaid costs owed to the lower judicatory within 30 days after receiving
402 notice of such costs; or
- 403 (2) Files an affidavit of indigence with the reviewing court stating that the petitioner is
404 unable to pay the costs owed to the lower judicatory because of indigence.
- 405 (c) No appeal shall be dismissed by a reviewing court because of nonpayment of the costs
406 owed to a lower judicatory unless the petitioner has been ordered by the reviewing court
407 to pay such costs and has failed to comply with such order.
- 408 (d) An executor, administrator of an estate, or other trustee, when defending an action in
409 such capacity or when solely defending an estate's title, may file a petition for review
410 without paying costs as required by this Code section and without giving a bond and
411 security as provided in Code Section 5-3-17; provided, however, that, if a judgment is
412 obtained against an executor, administrator of an estate, or other trustee and not the assets
413 of the estate, then the executor, administrator of an estate, or other trustee shall pay such
414 costs as required by this Code section and give security if required under Code
415 Section 5-3-17.
- 416 (e) Unless the petitioner in a civil case files an affidavit of indigence with the reviewing
417 court stating that the petitioner is unable to pay the costs owed to the lower judicatory
418 because of indigence, the petitioner in a civil case shall obtain and file with the reviewing
419 court a certificate of payment of costs from the lower judicatory certifying that the
420 petitioner has paid all costs owed to the lower judicatory. Such certificate shall be:
- 421 (1) Filed in the reviewing court within five days after issuance by the lower judicatory;
422 and
- 423 (2) Signed by a judge, clerk, official, member, or other designated representative of the
424 lower judicatory.

425 5-3-17.

426 (a) Except to the extent prohibited by law, the filing of a petition for review under this
427 chapter shall act as supersedeas and shall suspend but not vacate a final judgment of a
428 lower judicatory.

429 (b) Except as provided in subsection (c) of this Code section, a supersedeas bond need not
430 be given by a petitioner under this chapter.

431 (c)(1) Except as provided in subsection (d) of Code Section 5-3-16 or otherwise
432 prohibited by law, the reviewing court may require that a supersedeas bond be given with
433 good security while a petition for review is under review.

434 (2) In criminal cases where a bond is required pursuant to paragraph (1) of this
435 subsection, the lower judicatory shall order that the petitioner be released from custody
436 upon the giving of a bond by the petitioner.

437 (d) If a petitioner fails to give a bond when a bond is required, the supersedeas provided
438 for in subsection (a) of this Code section shall cease unless the petitioner files with the
439 reviewing court an affidavit stating that because of indigence the petitioner is unable to
440 give a bond.

441 (e) A bond set pursuant to this chapter shall not exceed the total amount of damages, fines,
442 fees, penalties, and surcharges imposed by the lower judicatory in the case under review.

443 (f) Bonds given pursuant to this chapter are subject to the following requirements:

444 (1) If a person has been convicted of any criminal or quasi-criminal offense or a violation
445 of any ordinance, bond shall be payable to the state unless such conviction is in a
446 municipal court, in which case it shall be payable to the municipality under which such
447 court exists. This paragraph shall not apply to constitutional city courts or state courts;

448 (2) In civil cases, the petitioner shall make a bond payable to the respondent;

449 (3) The petitioner must agree under oath to personally appear and abide by the final
450 judgment, decision, order, or sentence in the case;

- 451 (4) If a secured bond is required, the person providing security shall swear under oath
452 that he or she can fulfill the bond obligation; and
- 453 (5) The giving of a bond shall be consistent with the Constitution of the United States
454 and the laws and the Constitution of this state, including, but not limited to,
455 Code Section 17-6-1.
- 456 (g) A bond may be forfeited in the same manner as any other bond in any court having
457 jurisdiction, except that a bond payable to a municipality may be forfeited as prescribed in
458 a municipal ordinance of such municipality.
- 459 (h) A supersedeas provided for in this Code section shall suspend the final judgment of the
460 lower judicatory until the petition for review is decided or dismissed by the reviewing court
461 or by an appellate court upon appeal, provided that the petitioner applies for and procures
462 the necessary writs for reviewing the decision complained of within the time prescribed.
- 463 (i) If a petition for review is filed by a petitioner's attorney, the petitioner's attorney shall
464 be authorized to sign the name of the petitioner to the supersedeas bond. In such cases, the
465 petitioner shall be bound by the supersedeas bond as though the petitioner had personally
466 signed it.
- 467 (j) An action may be brought on the bond given under this chapter in any court having
468 jurisdiction.
- 469 (k) A valid bond may replace or be amended to replace a void bond or no bond at all at any
470 time under this Code section.
- 471 (l) A petitioner's surety, if any, shall be bound by the judgment in a petition for review.
472 A surety compelled to pay off a debt or damages for which judgment is entered under this
473 chapter shall only have recourse against the surety's principal.
- 474 (m) When several partners or joint contractors bring or defend a claim, any one of the
475 partners or joint contractors may file a petition for review in the name of the firm or joint
476 contractors and sign the name of the firm or joint contractors to a bond if a bond is required

477 by the reviewing court. Such petition for review and bond shall be binding on the firm and
478 the joint contractors as though they had signed it themselves.

479 5-3-18.

480 (a)(1) After a petition for review is reviewed under this chapter, the reviewing court shall
481 render a final decision:

482 (A) Entering a judgment upon the petition for review;

483 (B) Ordering dismissal of the petition for review;

484 (C) Remanding a petition for review back to the lower judicatory with instructions; or

485 (D) A combination thereof.

486 (2) If the final decision rendered pursuant to this Code section is a judgment upon the
487 petition for review, it shall be in writing and specify whether the reviewing court is
488 affirming, reversing, or vacating the final judgment of the lower judicatory.

489 (3) If the final decision rendered pursuant to this Code section remands the petition for
490 review back to the lower judicatory, it shall provide instructions to the lower judicatory
491 for further proceedings.

492 (b) The clerk of the reviewing court shall serve a copy of the reviewing court's final
493 decision regarding a petition for review on the clerk of the lower judicatory and on all
494 parties named in the petition for review within five days after the date such decision was
495 rendered. The clerk of the lower judicatory shall promptly notify each judge, official, or
496 member of the lower judicatory who rendered the final judgment appealed of any final
497 decision served on the clerk of the lower judicatory. If the lower judicatory does not have
498 a clerk, then the clerk of the reviewing court shall serve a copy of the reviewing court's
499 final decision on each judge, official, or member of the lower judicatory who rendered the
500 final judgment appealed.

501 (c) A final decision by the reviewing court under this chapter may be appealed to the
502 appropriate appellate court as prescribed by law.

503 5-3-19.

504 (a) If a petition for review is dismissed or withdrawn pursuant to this chapter, the rights
505 of all parties shall be the same as if no appeal had been filed. Notwithstanding any other
506 provision of law, the dismissal or withdrawal of a petition for review under this chapter
507 shall:

508 (1) Dismiss the petition for review;

509 (2) Not dismiss the petitioner's underlying case from the lower judiciary or vacate the
510 final judgment of the lower judiciary; and

511 (3) Reinstate the final judgment of the lower judiciary as if the petition for review had
512 not been filed.

513 (b) This Code section shall apply to all cases appealed under this chapter regardless of the
514 standard of review applied under Code Section 5-3-5.

515 5-3-20.

516 Reasonable and necessary attorney's fees and expenses of litigation may be assessed for
517 frivolous actions or defenses in a petition for review as provided in Code Section 9-15-14.

518 5-3-21.

519 (a) If a petition for review is sustained and a final decision regarding the case is made by
520 the reviewing court, the petitioner may have judgment entered for the sum recovered by
521 the petitioner in the lower judiciary, the costs paid to obtain the petition for review, and
522 the costs in the reviewing court.

523 (b) If a petition for review is returned to the lower judiciary for a new hearing, the
524 petitioner shall have judgment entered for the costs in the reviewing court only, leaving the
525 costs paid to obtain the petition for review to be awarded upon the final judgment of the
526 lower judiciary after the new hearing.

527 (c) If a petition for review is dismissed and a final decision regarding the case is made by
 528 the reviewing court, the respondent in a petition for review may have judgment entered in
 529 the reviewing court against the petitioner and the petitioner's security for the sum recovered
 530 by the respondent, together with the costs in the reviewing court.

531 (d) If a petition for review is returned to the lower judiciary and the lower judiciary
 532 decides the case in favor of the respondent, then the security on the petition for review
 533 bond shall be included in the lower judiciary's final judgment."

534 **SECTION 1-2.**

535 Said title is further amended by repealing in its entirety Chapter 4, relating to certiorari to
 536 superior court, and designating said chapter as reserved.

537 **PART II.**

538 **SECTION 2-1.**

539 Code Section 3-2-35 of the Official Code of Georgia Annotated, relating to seizure of
 540 contraband by commissioner and agents regarding alcoholic beverages, proceedings upon
 541 seizure, hearing on entitlement to seized items, appeals, and disposition of items upon which
 542 taxes have been paid, is amended by revising subsection (e) as follows:

543 "(e) An appeal from the commissioner's order may be taken to the Superior Court of Fulton
 544 County by filing with the commissioner, within 15 days from the date of the decision, a
 545 ~~notice of appeal to~~ copy of the petition for review filed in the Superior Court of Fulton
 546 County. The proceedings on the petition for review shall be governed by Chapter 3 of
 547 Title 5 except as provided otherwise in this Code section. The appeal shall be based upon
 548 the record made before the commissioner, ~~and the commissioner, upon the filing of a~~
 549 ~~notice of appeal,~~ The commissioner shall transmit the record and appropriate documents
 550 to the superior court within 30 days from ~~after~~ the date of the filing of notice of appeal ~~the~~

551 petition for review is received. The superior court shall review the record for errors of law,
552 violation of constitutional or statutory provisions, violation of the statutory authority of the
553 agency, lawfulness of the procedure, lack of any evidence to support the decision, and
554 arbitrariness and abuse of discretion. However, the court shall not substitute its judgment
555 for that of the hearing officer as to the weight of evidence on questions of fact."

556 **SECTION 2-2.**

557 Code Section 4-8-23 of the Official Code of Georgia Annotated, relating to investigations
558 by dog control officer, notice to owner, hearings, determinations by hearing authority, and
559 judicial review, is amended by revising subsection (f) as follows:

560 "(f) Judicial review of the authority's final decision may be had in accordance with Code
561 Section 15-9-30.9. Judicial review of a probate court's final decision shall be in
562 accordance with Code Section ~~5-3-2~~ 5-3-4 and costs shall be paid as provided in Code
563 Section ~~5-3-22~~ 5-3-16."

564 **SECTION 2-3.**

565 Code Section 10-1-787 of the Official Code of Georgia Annotated, relating to finality of
566 arbitrator's decision under the 'Georgia Lemon Law,' appeals by manufacturers, and time for
567 compliance with arbitrator's decision, is amended by revising subsection (a) as follows:

568 "(a) The decision of the arbitrator or arbitrators is final unless a party to the arbitration,
569 within 30 days of entry of the decision, appeals the decision to the superior court. A party
570 who appeals a decision shall follow the procedures set forth in ~~Article 2~~ of Chapter 3 of
571 Title 5, and any appeal shall be de novo; however, the decision of the arbitrator or
572 arbitrators shall be admissible in evidence."

573

SECTION 2-4.

574 Code Section 10-14-22 of the Official Code of Georgia Annotated, relating to judicial appeal
575 of order of Secretary of State regarding cemetery and funeral services, is amended by
576 revising subsections (a) and (b) as follows:

577 "(a)(1) An appeal may be taken from any order of the Secretary of State resulting from
578 a hearing held in accordance with the provisions of Code Section 10-14-23 by any person
579 adversely affected thereby to the Superior Court of Fulton County, Georgia, by serving
580 on the Secretary of State, within 20 days after the date of entry of such order, a ~~written~~
581 ~~notice of appeal~~ copy of the petition for review filed in the Superior Court of Fulton
582 County and signed by the petitioner, signed by the appellant, stating:

583 ~~(1)(A)~~ (A) The order from which the appeal is taken;

584 ~~(2)(B)~~ (B) The ground upon which a reversal or modification of such order is sought; and

585 ~~(3)(C)~~ (C) A demand for a certified transcript of the record of such order.

586 (2) The proceedings on the petition for review shall be governed by Chapter 3 of Title 5
587 except as provided in this Code section.

588 (b) Upon receipt of such ~~notice of appeal~~ petition for review, the Secretary of State shall,
589 within ten days thereafter, make, certify, and deliver to the ~~appellant~~ clerk of the Superior
590 Court of Fulton County a transcript of the record of the order from which the appeal is
591 taken, provided that the ~~appellant~~ petitioner shall pay the reasonable costs of such
592 transcript. ~~The appellant shall, within five days after receipt of such transcript, file such~~
593 ~~transcript and a copy of the notice of appeal with the clerk of the court. Said notice of~~
594 ~~appeal~~ petition for review and transcript of the record shall constitute ~~appellant's~~
595 petitioner's complaint. Said complaint shall thereupon be entered on the trial calendar of
596 the court in accordance with the court's normal procedures."

597

SECTION 2-5.

598 Code Section 12-3-194.1 of the Official Code of Georgia Annotated, relating to police and
599 legislative powers of the Stone Mountain Memorial Association, appointment of peace
600 officers, jurisdiction and venue of park offenses, and sale of confederate memorabilia, is
601 amended by revising subsection (c) as follows:

602 "(c) For purposes of this Code section, the Magistrate Court of DeKalb County shall have
603 jurisdiction and authority to hear and try those offenses occurring within the limits of Stone
604 Mountain Park which violate the ordinances of the association and to punish violations of
605 such ordinances, all in the manner and to the extent prescribed in Article 4 of Chapter 10
606 of Title 15. The State Court of DeKalb County shall have jurisdiction and authority to hear
607 and try all cases removed from the Magistrate Court of DeKalb County for jury trial by any
608 defendant charged with one or more violations of the ordinances of the association. The
609 Superior Court of DeKalb County shall have jurisdiction to review all convictions by
610 certiorari petition for review to the superior court. The proceedings on such petitions for
611 review shall be governed by Chapter 3 of Title 5. The jurisdiction and authority of the
612 courts of DeKalb County provided for in this Code section shall be in addition to and not
613 in limitation of the jurisdiction and authority of such courts as may be now or hereafter
614 provided."

615

SECTION 2-6.

616 Code Section 12-3-236.1 of the Official Code of Georgia Annotated, relating to adoption and
617 enforcement of ordinances and resolutions of the Jekyll Island State Park Authority, is
618 amended by revising subsection (b) as follows:

619 "(b) For purposes of this Code section, the Magistrate Court of Glynn County shall have
620 jurisdiction and authority to hear and try those cases occurring within the limits of Jekyll
621 Island in which a person is charged with violating an ordinance of the authority and to
622 punish violations of such ordinances, all in the manner and to the extent prescribed in

623 Article 4 of Chapter 10 of Title 15. The State Court of Glynn County shall have
 624 jurisdiction and authority to hear and try all cases removed from the Magistrate Court of
 625 Glynn County for jury trial by any defendant charged with one or more violations of the
 626 ordinances of the authority. The Superior Court of Glynn County shall have jurisdiction
 627 to review all convictions by ~~certiorari~~ petition for review to the superior court. The
 628 proceedings on such petitions for review shall be governed by Chapter 3 of Title 5. The
 629 jurisdiction and authority of the courts of Glynn County provided for in this Code section
 630 shall be in addition to and not in limitation of the jurisdiction and authority of such courts
 631 as may be now or hereafter provided."

632 **SECTION 2-7.**

633 Code Section 15-6-9 of the Official Code of Georgia Annotated, relating to authority of
 634 superior court judges generally, is amended by revising paragraph (1) as follows:

635 "(1) To grant for their respective circuits writs of ~~certiorari~~, supersedeas, quo warranto,
 636 mandamus, habeas corpus, and bail in actions ex delicto;"

637 **SECTION 2-8.**

638 Code Section 15-9-120 of the Official Code of Georgia Annotated, relating to definitions
 639 regarding probate court jury trials and appeals, is amended by revising paragraph (1) as
 640 follows:

641 "(1) 'Civil case' means those civil matters:

- 642 (A) Over which the judge of the probate court exercises judicial powers;
- 643 (B) Within the original, exclusive, or general subject matter jurisdiction of the
 644 probate court; and
- 645 (C) Which, if not for this article and Code Section 5-6-33, could be appealed to
 646 superior court for a de novo investigation with the right to a jury trial under Code
 647 Sections ~~5-3-2~~ 5-3-4 and ~~5-3-29~~ 5-3-5."

648 **SECTION 2-9.**

649 Code Section 15-10-41 of the Official Code of Georgia Annotated, relating to no jury trials
650 in magistrate courts and appeal from magistrate courts, is amended by revising subsection (b)
651 as follows:

652 "(b)(1) Except as otherwise provided in this subsection, appeals may be had from
653 judgments returned in the magistrate court to the state court of the county or to the
654 superior court of the county and the same provisions now provided for by general law for
655 appeals contained in ~~Article 2~~ of Chapter 3 of Title 5 shall be applicable to appeals from
656 the magistrate court, the same to be a de novo appeal. The provisions of ~~said Article 2~~
657 of Chapter 3 of Title 5 shall also apply to appeals to state court.

658 (2) No appeal shall lie from a default judgment or from a dismissal for want of
659 prosecution after a nonappearance of a plaintiff for trial. Any voluntary dismissal by the
660 plaintiff or by order of the court for want of prosecution shall be without prejudice except
661 that the filing of a second such dismissal shall operate as an adjudication upon the merits.
662 Review, including review of a denial of a postjudgment motion to vacate a judgment,
663 shall be by certiorari petition for review to the state court of that county or to the superior
664 court of that county."

665 **SECTION 2-10.**

666 Article 4 of Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to
667 violation of ordinances of counties and state authorities, is amended by revising Code
668 Section 15-10-65, relating to certiorari to superior court from magistrate court, as follows:

669 "15-10-65.

670 Review of convictions shall be by certiorari petition for review to the superior court."

671 **SECTION 2-11.**

672 Code Section 15-14-7 of the Official Code of Georgia Annotated, relating to destruction of
673 court reporter notes, how authorized, petition, grounds, notice, and order, is amended by
674 revising subsection (c) as follows:

675 "(c) The petition shall certify one of the following:

676 (1) That the action is a civil action in which no ~~notice of appeal~~ petition for review has
677 been filed, that the court reporter has not been requested or ordered to transcribe the
678 evidence and other proceedings, and that a period of not less than 37 months has elapsed
679 since the last date upon which a ~~notice of appeal~~ petition for review in the action could
680 have been filed; or

681 (2) That the action is one in which the court reporter has been requested or ordered
682 pursuant to law to transcribe the evidence and other proceedings, that the record has been
683 transcribed, and that a period of not less than 12 months has elapsed from the date upon
684 which the remittitur from the appeal has been docketed in the trial court."

685 **SECTION 2-12.**

686 Code Section 15-21A-6 of the Official Code of Georgia Annotated, relating to additional
687 filing fees, application fee for indigent defense services, and remittance of funds, is amended
688 by revising subsection (a) as follows:

689 "(a) In addition to all other legal costs, there shall be charged to the filing party and
690 collected by the clerk an additional filing fee of \$15.00 in each civil action or case filed in
691 the superior, state, recorder's, mayor's, and magistrate courts except that municipalities,
692 counties, and political subdivisions shall be exempt from such fee. Without limiting the
693 generality of the foregoing, such fee shall apply to all adoptions, ~~certiorari~~ petitions for
694 review, trade name registrations, applications for change of name, and all other proceedings
695 of a civil nature. Any matter which is docketed upon the official dockets of the enumerated

696 courts and to which a number is assigned shall be subject to such fee, whether such matter
697 is contested or not."

698 **SECTION 2-13.**

699 Code Section 15-21A-6.1 of the Official Code of Georgia Annotated, relating to judicial
700 operations fund fee and collection and reporting procedure, is amended by revising
701 subsection (a) as follows:

702 "(a) In addition to all other legal costs, there shall be charged to the filing party and
703 collected by the clerk an additional filing fee of \$125.00, to be known as a judicial
704 operations fund fee, in each civil action or case filed in a superior court except that the
705 state, including, but not limited to, its departments, agencies, boards, bureaus,
706 commissions, public corporations, and authorities, municipalities, counties, and political
707 subdivisions shall be exempt from such fee. Without limiting the generality of the
708 foregoing, such fee shall apply to all adoptions, certiorari petitions for review, trade name
709 registrations, applications for change of name, and all other proceedings of a civil nature.
710 Any matter which is docketed upon the official dockets of the superior court and to which
711 a number is assigned shall be subject to such fee, whether such matter is contested or not;
712 provided, however, that the judicial operations fund fee shall not apply to the issuance of
713 certificates of appointment and reappointment of notaries public."

714 **SECTION 2-14.**

715 Code Section 17-6-1 of the Official Code of Georgia Annotated, relating to when offenses
716 bailable, procedure, schedule of bails, and appeal bonds, is amended by revising
717 subsection (g) as follows:

718 "(g) No appeal bond shall be granted to any person who has been convicted of murder,
719 rape, aggravated sodomy, armed robbery, home invasion in any degree, aggravated child
720 molestation, child molestation, kidnapping, trafficking in cocaine or marijuana, aggravated

721 stalking, or aircraft hijacking and who has been sentenced to serve a period of incarceration
722 of five years or more. The granting of an appeal bond to a person who has been convicted
723 of any other felony offense or of any misdemeanor offense involving an act of family
724 violence as defined in Code Section 19-13-1, or of any offense delineated as a high and
725 aggravated misdemeanor or of any offense set forth in Code Section 40-6-391, shall be in
726 the discretion of the convicting court. Appeal bonds shall terminate when the right of
727 appeal terminates, and such bonds shall not be effective as to any petition for review or
728 petition or application for writ of certiorari unless the court in which the petition for review
729 or petition or application is filed so specifies."

730 **SECTION 2-15.**

731 Part 2 of Article 2 of Chapter 3 of Title 22 of the Official Code of Georgia Annotated,
732 relating to acquisition of right to flood roads and highways under eminent domain, is
733 amended by revising Code Section 22-3-44, relating to appeal to superior court, as follows:

734 "22-3-44.

735 Within 30 days after the award of condemnation is made pursuant to Part 4 of Article 1 of
736 Chapter 2 of this title or pursuant to Article 2 of Chapter 2 of this title, any party may
737 appeal to the superior court of the county in which the public roads or highways lie by
738 filing a petition for review with ~~the judge of the probate court of the county~~ a written notice
739 of appeal. ~~Within ten days after his receipt of the notice, the judge shall transmit the notice~~
740 ~~to the superior court.~~ The trial on such an appeal shall be de novo. The proceedings on the
741 petition for review shall be governed by Chapter 3 of Title 5."

742 **SECTION 2-16.**

743 Code Section 31-6-44.1 of the Official Code of Georgia Annotated, relating to judicial
744 review regarding the certificate of need program under state health planning and
745 development, is amended by revising subsection (b) as follows:

746 "(b) In the event a party seeks judicial review, the proceedings for such review shall be
747 governed by Chapter 3 of Title 5 except as provided otherwise in this Code section. If a
748 party seeks judicial review, the department shall, within 30 days ~~of the filing of the notice~~
749 ~~of appeal with~~ after being served with a copy of the petition for review filed in the superior
750 court, transmit certified copies of all documents and papers in its file together with a
751 transcript of the testimony taken and its findings of fact and decision to the clerk of the
752 superior court to which the case has been appealed. The case so appealed may then be
753 brought by either party upon ten days' written notice to the other before the superior court
754 for a hearing upon such record, subject to an assignment of the case for hearing by the
755 court; provided, however, that, if the court does not hear the case within 120 days of the
756 date of docketing in the superior court, the decision of the department shall be considered
757 affirmed by operation of law unless a hearing originally scheduled to be heard within the
758 120 days has been continued to a date certain by order of the court. In the event a hearing
759 is held later than 90 days after the date of docketing in the superior court because same has
760 been continued to a date certain by order of the court, the decision of the department shall
761 be considered affirmed by operation of law if no order of the court disposing of the issues
762 on appeal has been entered within 30 days after the date of the continued hearing. If a case
763 is heard within 120 days from the date of docketing in the superior court, the decision of
764 the department shall be considered affirmed by operation of law if no order of the court
765 ~~dispositive~~ disposing of the issues on appeal has been entered within 30 days of the date
766 of the hearing."

767 **SECTION 2-17.**

768 Article 1 of Chapter 3 of Title 32 of the Official Code of Georgia Annotated, relating to
769 general provisions regarding acquisition of property for transportation purposes, is amended
770 in Code Section 32-3-11, relating to power of judge to set aside, vacate, and annul

771 declaration of taking, issuance and service on condemnor of rule nisi, and hearing, by
772 revising subsection (c) as follows:

773 "(c) If the condemnee desires to raise such questions as are outlined in subsection (b) of
774 this Code section, the same shall be done by proper pleadings, in the form of a petition for
775 review addressed to the judge of the superior court having jurisdiction thereof, filed in the
776 same proceedings not later than 30 days subsequent to the date of service upon the
777 condemnee of the declaration of taking. The presiding judge shall thereupon cause a rule
778 nisi to be issued and served upon the condemnor, requiring him or her to show cause at a
779 time and place designated by the judge why the title acquired by the declaration of taking
780 should not be vacated and set aside in the same way and manner as is now provided for
781 setting aside deeds acquired by fraud. Such hearing shall be had not earlier than 15 days
782 from the time of service of the rule nisi upon the condemnor, nor later than 60 days from
783 the date of filing of the declaration of taking, and with the right of appeal by either party,
784 as in other cases. A petition for review filed pursuant to this subsection shall be governed
785 by the provisions of Chapter 3 of Title 5, except to the extent any such provision is in
786 conflict with any provision of this article."

787 **SECTION 2-18.**

788 Said article is further amended by revising Code Section 32-3-14, relating to filing a notice
789 of appeal, as follows:

790 "32-3-14.

791 If the owner, or any of the owners, or any person having a claim against or interest in the
792 property is dissatisfied with the amount of compensation as estimated in the declaration of
793 taking and deposited in court, as provided for in Code Section 32-3-7, such person or
794 persons, or any of them, shall have the right, at any time subsequent to the filing of the
795 declaration and the deposit of the fund into court, but not later than 30 days following the
796 date of the service as provided for in Code Sections 32-3-8 and 32-3-9, to file with the

797 court a ~~notice of appeal~~ petition for review, the same to be in writing and made a part of
798 the record in the proceedings."

799 **SECTION 2-19.**

800 Said article is further amended in Code Section 32-3-16, relating to appeal to jury, evidence
801 to be heard on appeal, and subsequent review of issues not brought before jury, by revising
802 subsections (a) and (c) as follows:

803 "(a) After the ~~notice of appeal~~ petition for review has been filed as provided in Code
804 Section 32-3-14, it shall be the duty of the court at the next term thereof, which shall
805 convene not earlier than 30 days subsequent to the date of service, as provided for in Code
806 Sections 32-3-8 and 32-3-9, to cause an issue to be made and tried by a jury as to the value
807 of the property or interest taken and the consequential damages to property or interests not
808 taken, with the same right to move for a new trial and file a ~~notice of appeal~~ petition for
809 review as in other cases at law, provided that an interlocutory award has not become final
810 pursuant to Code Section 32-3-15."

811 "(c) If, for any reason, the issues made by the filing of the ~~notice of appeal~~ petition for
812 review provided for in this Code section are not tried by a jury as to the value of the
813 property or interest taken and the consequential damages to the property or interests not
814 taken, at the next term of the court after the filing of such appeal, such fact shall not be
815 cause for dismissal of the appeal and the issues made by such appeal shall be subject to trial
816 at any future term of the court."

817 **SECTION 2-20.**

818 Said article is further amended by revising Code Section 32-3-17.1, relating to decisions
819 upon questions of law, power of judge to give necessary orders and directions, and jury trial
820 in open court only, as follows:

821 "32-3-17.1.

822 All questions of law arising upon the pleadings or in any other way arising from the cause,
823 subsequent to the filing of the declaration of taking and the deposit of the fund, and
824 subsequent to the filing of ~~notice of appeal~~ a petition for review, if any, shall be passed on
825 by the presiding judge who may, from time to time, make such orders and give such
826 directions as are necessary to speed the cause, and as may be consistent with justice and
827 due process of law; but no jury trial shall be had except in open court."

828 **SECTION 2-21.**

829 Code Section 33-2-27 of the Official Code of Georgia Annotated, relating to pleading and
830 procedure of judicial review and powers of a reviewing court generally, is amended by
831 revising subsections (a) and (c) as follows:

832 "(a) The form of proceeding for judicial review shall be by a petition for review in the
833 Superior Court of Fulton County, a copy of which shall be served upon the Commissioner
834 immediately. The proceedings on the petition for review shall be governed by the
835 provisions of Chapter 3 of Title 5, except to the extent any such provision is in conflict
836 with any provision of this title."

837 "(c) The petition for review or other pleading in which judicial review shall be sought shall
838 plainly specify the action complained of and shall set forth the relief sought and, without
839 excessive detail, the facts and circumstances supporting the petitioner's right to such relief."

840 **SECTION 2-22.**

841 Code Section 33-6-8 of the Official Code of Georgia Annotated, relating to issuance of cease
842 and desist orders, issuance of orders providing for other relief, change in orders, and date on
843 which orders appealable, is amended by revising subsection (b) as follows:

844 "(b) The Commissioner may, at any time before the serving of ~~notice of appeal~~ a copy of
845 the petition for review filed in the Superior Court of Fulton County upon him or her, as

846 provided for in Code Section 33-6-11, or after the expiration of the time allowed by law
 847 for the serving of the notice petition for review, if no notice petition for review has been
 848 thus served, amend or set aside in whole or in part any order issued by him the
 849 Commissioner under this Code section whenever in his the Commissioner's opinion the
 850 facts and circumstances surrounding the case have so changed as to require the action or
 851 if the public interest shall so require. No change of an order in a manner unfavorable to the
 852 person charged or to the parties at interest shall be made except after notice and opportunity
 853 for hearing. The date of the Commissioner's last order shall be the point of time from
 854 which it may be reviewed by appeal."

855 **SECTION 2-23.**

856 Code Section 34-9-105 of the Official Code of Georgia Annotated, relating to when workers'
 857 compensation award deemed final, appeal to superior court, grounds for setting aside
 858 decisions, and appeal to Court of Appeals, is amended by revising subsection (b) as follows:
 859 "(b) Either party to the dispute may, within 20 days from the date of any such final award
 860 or within 20 days from the date of any other final order or judgment of the members of the
 861 board, but not thereafter, appeal from the decision in such final award or from any other
 862 final decision of the board to the superior court of the county in which the injury occurred
 863 or, if the injury occurred outside the state, to the superior court of the county in which the
 864 original hearing was held, in the manner and upon the grounds provided in Chapter 3 of
 865 Title 5, except to the extent any such provision is in conflict with any provision of this
 866 Code section. ~~Said appeal~~ A copy of the petition for review shall be ~~filed with~~ served on
 867 the clerk for the board in writing stating generally the grounds upon which such appeal is
 868 sought. In the event of an appeal, the board shall, within 30 days of the filing such service
 869 of the notice of appeal with the board, transmit certified copies of all documents and papers
 870 in its file together with a transcript of the testimony taken and its findings of fact and
 871 decision to the clerk of the superior court to which the case is appealable, as provided in

872 this subsection. The case so appealed may then be brought by either party upon ten days'
873 written notice to the other before the superior court for a hearing upon such record, subject
874 to an assignment of the case for hearing by the court; provided, however, that, if the court
875 does not hear the case within 60 days of the date of docketing in the superior court, the
876 decision of the board shall be considered affirmed by operation of law unless a hearing
877 originally scheduled to be heard within the 60 days has been continued to a date certain by
878 order of the court. In the event a hearing is held later than 60 days after the date of
879 docketing in the superior court because same has been continued to a date certain by order
880 of the court, the decision of the board shall be considered affirmed by operation of law if
881 no order of the court disposing of the issues on appeal has been entered within 20 days after
882 the date of the continued hearing. If a case is heard within 60 days from the date of
883 docketing in the superior court, the decision of the board shall be considered affirmed by
884 operation of law if no order of the court ~~dispositive~~ disposing of the issues on appeal has
885 been entered within 20 days of the date of the hearing."

886 **SECTION 2-24.**

887 Code Section 36-15-9 of the Official Code of Georgia Annotated, relating to collection of
888 additional costs in county court cases, amount, determination of need as prerequisite to
889 collection, and collection in certain criminal cases, is amended by revising subsection (a) as
890 follows:

891 "(a) For the purpose of providing funds for those uses specified in Code Section 36-15-7,
892 a sum not to exceed \$5.00, in addition to all other legal costs, may be charged and collected
893 in each action or case, either civil or criminal, including, without limiting the generality of
894 the foregoing, all adoptions, ~~certiorari~~ petitions for review, applications by personal
895 representatives for leave to sell or reinvest, trade name registrations, applications for
896 change of name, and all other proceedings of civil or criminal or quasi-criminal nature,
897 filed in the superior, state, probate, and any other courts of record, except county recorders'

898 courts or municipal courts. The amount of such additional costs to be charged and
899 collected, if any, in each such case shall be fixed by the chief judge of the superior court
900 of the circuit in which such county is located. Such additional costs shall not be charged
901 and collected unless the chief judge first determines that a need exists for a law library in
902 the county. The clerk of each and every such court in such counties in which such a law
903 library is established shall collect such fees and remit the same to the treasurer of the board
904 of trustees of the county law library of the county in which the case was brought, on the
905 first day of each month. Where fees collected by the treasurer have been allocated for the
906 purpose of establishing or maintaining the codification of county ordinances, the allocated
907 amount shall in turn be remitted by the treasurer to the county governing authority for said
908 purpose on a monthly basis or as otherwise agreed by the treasurer and the county
909 governing authority. The county ordinance code provided for in subsection (a) of Code
910 Section 36-15-7 shall be maintained by the county governing authority. When the costs
911 in criminal cases are not collected, the cost provided in this Code section shall be paid from
912 the fine and bond forfeiture fund of the court in which the case is filed, before any other
913 disbursement or distribution of such fines or forfeitures is made."

914

SECTION 2-25.

915 Code Section 36-32-2.1 of the Official Code of Georgia Annotated, relating to removal of
916 municipal judges, is amended by revising subsection (e) as follows:

917 "(e) Removal proceedings shall consist of an open and public hearing held by the
918 governing authority of the municipal corporation, provided that the judge against whom
919 such charges have been brought shall be furnished a copy of the charges at least ten days
920 prior to the hearing. At the conclusion of the hearing, the governing authority of the
921 municipal corporation shall determine whether or not to remove the judge from office. The
922 governing authority of the municipal corporation may adopt rules governing the procedures
923 at such hearings, provided that such hearings comport with due process. The right of

924 ~~certiorari from the~~ to appeal a decision to remove a judge from office shall exist, and such
 925 ~~certiorari shall be obtained under the sanction of a judge of the~~ The decision to remove a
 926 judge from office pursuant to this Code section shall be appealed by filing a petition for
 927 review in the superior court of the circuit in which the governing authority of the municipal
 928 corporation is situated. Such appeals shall be governed by Chapter 3 of Title 5."

929 **SECTION 2-26.**

930 Article 3 of Chapter 74 of Title 36 of the Official Code of Georgia Annotated, relating to
 931 county and municipal enforcement boards created prior to January 1, 2003, is amended by
 932 revising Code Section 36-74-48, relating to appeals to superior court, as follows:

933 "36-74-48.

934 An aggrieved party, including the local governing body, may appeal a final administrative
 935 order of an enforcement board to the superior court of the county in which the subject
 936 property is located. Such an appeal shall be in the form of a ~~writ of certiorari~~ petition for
 937 review governed by Chapter ~~4~~ 3 of Title 5 and shall be heard on the record. ~~An appeal~~ A
 938 petition for review shall be filed within 30 days of the execution of the order to be
 939 appealed."

940 **SECTION 2-27.**

941 Chapter 3 of Title 37 of the Official Code of Georgia Annotated, relating to examination,
 942 treatment, etc., for mental illness, is amended by revising Code Section 37-3-150, relating
 943 to right to appeal orders of probate court, juvenile court, or hearing examiner, payment of
 944 costs of appeal, right to subsequent appeal, and right to legal counsel on appeal, as follows:

945 "37-3-150.

946 The patient, the patient's representatives, or the patient's attorney may appeal any order of
 947 the probate court or hearing officer rendered in a proceeding under this chapter to the
 948 superior court of the county in which the proceeding was held, except as otherwise

949 provided in Article 6 of Chapter 9 of Title 15, and may appeal any order of the juvenile
950 court rendered in a proceeding under this chapter to the Court of Appeals or the Supreme
951 Court. The appeal to the superior court shall be made in the same manner as appeals from
952 the probate court to the superior court, except that the appeal shall be heard before the court
953 sitting without a jury as soon as practicable but not later than 30 days following the date
954 on which the appeal is filed with the clerk of the superior court. The appeal from the order
955 of the juvenile court to the Court of Appeals or the Supreme Court shall be as provided by
956 law but shall be heard as expeditiously as possible. The patient must pay all costs upon
957 filing any appeal authorized under this Code section or must make an affidavit that he or
958 she is unable to pay costs. The patient shall retain all rights of review of any order of the
959 superior court, the Court of Appeals, or the Supreme Court, as provided by law. The
960 patient shall have a right to counsel or, if unable to afford counsel, shall have counsel
961 appointed for the patient by the court. The appeal rights provided to the patient, the
962 patient's representatives, or the patient's attorney in this Code section are in addition to any
963 other appeal rights which the parties may have, and the provision of the right for the
964 patient, the patient's representatives, or the patient's attorney to appeal does not deny the
965 right to the Department of Behavioral Health and Developmental Disabilities to appeal
966 under the general appeal provisions of Code ~~Sections 5-3-2 and 5-3-3~~ Section 5-3-4."

967 **SECTION 2-28.**

968 Chapter 4 of Title 37 of the Official Code of Georgia Annotated, relating to habilitation of
969 the developmentally disabled generally, is amended by revising Code Section 37-4-110,
970 relating to appeal rights of clients, their representatives, or attorneys, payment of costs of
971 appeal, right of client to subsequent appeal and to legal counsel on appeal, as follows:

972 "37-4-110.

973 The client, the client's representatives, or the client's attorney may appeal any order of the
974 probate court or administrative law judge rendered in a proceeding under this chapter to the

975 superior court of the county in which the proceeding was held, except as otherwise
976 provided in Article 6 of Chapter 9 of Title 15, and may appeal any order of the juvenile
977 court rendered in a proceeding under this chapter to the Court of Appeals or the Supreme
978 Court. The appeal to the superior court shall be made in the same manner as appeals from
979 the probate court to the superior court, except that the appeal shall be heard before the court
980 sitting without a jury as soon as practicable but not later than 30 days following the date
981 on which the appeal is filed with the clerk of the superior court. The appeal from the order
982 of the juvenile court to the Court of Appeals or the Supreme Court shall be as provided by
983 law but shall be heard as expeditiously as possible. The client must pay all costs upon
984 filing any appeal authorized under this Code section or must make an affidavit that he or
985 she is unable to pay costs. The client shall retain all rights of review of any order of the
986 superior court, the Court of Appeals, or the Supreme Court as provided by law. The client
987 shall have a right to counsel or, if unable to afford counsel, shall have counsel appointed
988 for the client by the court. The appeal rights provided to the client, the client's
989 representatives, or the client's attorney in this Code section are in addition to any other
990 appeal rights which the parties may have, and the provision of the right for the client, the
991 client's representatives, or the client's attorney to appeal does not deny the right to the
992 Department of Behavioral Health and Developmental Disabilities to appeal under the
993 general appeal provisions of Code ~~Sections 5-3-2 and 5-3-3~~ Section 5-3-4."

994 **SECTION 2-29.**

995 Chapter 7 of Title 37 of the Official Code of Georgia Annotated, relating to hospitalization
996 and treatment of alcoholics, drug dependent individuals, and drug abusers, is amended by
997 revising Code Section 37-7-150, relating to right to appeal orders of probate court, juvenile
998 court, or hearing examiner, payment of costs of appeal, right of patient to subsequent appeal,
999 and right of patient to legal counsel on appeal, as follows:

1000 "37-7-150.

1001 The patient, the patient's representatives, or the patient's attorney may appeal any order of
1002 the probate court or hearing officer rendered in a proceeding under this chapter to the
1003 superior court of the county in which the proceeding was held, except as otherwise
1004 provided in Article 6 of Chapter 9 of Title 15, and may appeal any order of the juvenile
1005 court rendered in a proceeding under this chapter to the Court of Appeals or the Supreme
1006 Court. The appeal to the superior court shall be made in the same manner as appeals from
1007 the probate court to the superior court, except that the appeal shall be heard before the court
1008 sitting without a jury as soon as practicable but not later than 30 days following the date
1009 on which the appeal is filed with the clerk of the superior court. The appeal from the order
1010 of the juvenile court to the Court of Appeals or the Supreme Court shall be as provided by
1011 law but shall be heard as expeditiously as possible. The patient must pay all costs upon
1012 filing any appeal authorized under this Code section or must make an affidavit that he or
1013 she is unable to pay costs. The patient shall retain all rights of review of any order of the
1014 superior court, the Court of Appeals, or the Supreme Court, as provided by law. The
1015 patient shall have a right to counsel or, if unable to afford counsel, shall have counsel
1016 appointed for the patient by the court. The appeal rights provided to the patient, the
1017 patient's representatives, or the patient's attorney in this Code section are in addition to any
1018 other appeal rights which the parties may have, and the provision of the right for the
1019 patient, the patient's representatives, or the patient's attorney to appeal does not deny the
1020 right to the Department of Behavioral Health and Developmental Disabilities to appeal
1021 under the general appeal provisions of Code ~~Sections 5-3-2 and 5-3-3~~ Section 5-3-4."

1022 **SECTION 2-30.**

1023 Code Section 38-3-64 of the Official Code of Georgia Annotated, relating to appeal rights
1024 of adversely affected parties relative to judicial emergencies and cost of appeal borne by
1025 state, is amended by revising subsection (b) as follows:

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1026 "~~(b) A notice of appeal~~ petition for review shall be filed no later than 45 days after the
 1027 expiration of the judicial emergency order, or any modification or extension of a judicial
 1028 emergency order, from which an appeal is sought. A ~~notice of appeal~~ petition for review
 1029 shall be filed with the clerk of a superior court in any jurisdiction affected by the order and
 1030 shall be served upon:

- 1031 (1) The authorized judicial official who issued the order;
- 1032 (2) The parties to any criminal proceeding or civil litigation in which the appellant is
 1033 involved which would be affected by the appeal;
- 1034 (3) The district attorney of the county in which the ~~notice of appeal~~ petition for review
 1035 is filed; and
- 1036 (4) All other parties in any criminal proceeding or civil litigation which would be
 1037 affected by the appeal; provided, however, that service in this regard shall be
 1038 accomplished by publishing notice of the filing of the appeal in the newspaper which is
 1039 the legal organ for the county in which the ~~notice of the appeal~~ petition for review is
 1040 filed."

1041 **SECTION 2-31.**

1042 Article 2 of Chapter 13 of Title 40 of the Official Code of Georgia Annotated, relating to
 1043 arrests, trials, and appeals regarding prosecution of traffic offenses, is amended by revising
 1044 Code Section 40-13-28, relating to appeal to superior court and bond, as follows:

1045 "40-13-28.

1046 Any defendant convicted under this article shall have the right of appeal to the superior
 1047 court. The provisions of ~~Code Sections 5-3-29 and 5-3-30~~ subsections (b) and (c) of Code
 1048 Section 5-3-5 and subsection (e) of Code Section 5-3-9 shall not apply to appeals under this
 1049 Code section. Otherwise, the appeal shall be entered as appeals are entered from the
 1050 probate court to the superior court, provided that the defendant shall be entitled to bail and
 1051 shall be released from custody upon giving the bond as is provided for appearances in

1052 criminal cases in the courts of this state. Such bond shall have the same conditions as
1053 appearance bonds in criminal cases. The appeal to the superior court shall not be a de novo
1054 investigation before a jury but shall be on the record of the hearing as certified by the judge
1055 of that court who presided at the hearing below."

1056 **SECTION 2-32.**

1057 Code Section 41-2-9 of the Official Code of Georgia Annotated, relating to county or
1058 municipal ordinances relating to unfit buildings or structures, is amended by revising
1059 subsection (d) as follows:

1060 "(d) Where the abatement action does not commence in the superior court, review of a
1061 court order requiring the repair, alteration, improvement, or demolition of a dwelling,
1062 building, or structure shall be ~~by direct appeal to~~ a de novo proceeding in the superior court
1063 under Code ~~Section 5-3-29~~ Sections 5-3-4 and 5-3-5."

1064 **SECTION 2-33.**

1065 Chapter 17 of Title 43 of the Official Code of Georgia Annotated, relating to the "Georgia
1066 Charitable Solicitations Act of 1988," is amended in Code Section 43-17-4, relating to
1067 bonding requirements for registered paid solicitors and deposits in lieu of bond, by revising
1068 subsections (c) and (d) as follows:

1069 "(c) Such deposits shall be held for the benefit of all persons to whom the applicant is
1070 liable for damages under this chapter for a period of two years after such applicant's
1071 registration has expired or been revoked; provided, however, that such deposits shall not
1072 be released at any time while there is pending against the applicant an action (including any
1073 direct appeal of such action, ~~or~~ an appeal based on a petition for certiorari jurisdiction, or
1074 a petition for review), of which the Secretary of State has notice, in a court of competent
1075 jurisdiction in which it is alleged that the applicant is liable for damages under this chapter.
1076 Such deposits shall not be released except upon application to and the written order of the

1077 Secretary of State. The Secretary of State shall have no liability for any such release of any
1078 deposit or part thereof made by him or her in good faith. The Secretary of State may
1079 designate any regularly constituted state depository having trust powers domiciled in this
1080 state as a depository to receive and hold any such deposit. Any such deposit so held shall
1081 be at the expense of the applicant. Such depository shall give to the Secretary of State a
1082 proper trust and safekeeping receipt upon which the Secretary of State shall give an official
1083 receipt to the applicant. The State of Georgia shall be responsible for the safekeeping and
1084 return of all deposits made pursuant to this Code section. So long as the applicant complies
1085 with this chapter, the applicant may demand, receive, bring an action for, and recover the
1086 income from the securities deposited or may exchange and substitute for the letter of credit
1087 or securities deposited or a part thereof, with the approval of the Secretary of State, a letter
1088 of credit or securities of the kinds specified in subsection (b) of this Code section of
1089 equivalent or greater value. No judgment creditor or other claimant of the applicant shall
1090 levy upon any deposit held pursuant to this Code section or upon any part thereof, except
1091 as specified in this subsection. Whenever any person shall file an action in a court of
1092 competent jurisdiction in which it is alleged that the applicant is liable for damages under
1093 this chapter, such person, in order to secure his or her recovery, may give notice to the
1094 Secretary of State of such alleged liability and of the amount of damages claimed, after
1095 which notice the Secretary of State shall be bound to retain, subject to the order of the
1096 Superior Court of Fulton County, as provided in subsection (d) of this Code section, a
1097 sufficient amount of the deposit to pay the judgment in the action.

1098 (d) In the event that the applicant prevails in such action and in the event that such deposits
1099 have been held by the Secretary of State for a period of at least two years after the
1100 applicant's registration has expired or been revoked, then such deposits shall be released
1101 to the applicant; provided, however, that such deposits shall not be released at any time
1102 while there is pending against the applicant an action (including any direct appeal of such
1103 action, ~~or~~ an appeal based on a petition for certiorari jurisdiction, or a petition for review),

1104 of which the Secretary of State has notice, in a court of competent jurisdiction in which it
1105 is alleged that the applicant is liable for damages under this chapter. If a judgment is
1106 rendered in such action by which it is determined that the applicant is liable for damages
1107 under this chapter and the applicant has not paid the judgment within ten days of the date
1108 the judgment became final or if the applicant petitions the Supreme Court of the United
1109 States to take certiorari jurisdiction over such action and the applicant has not paid the
1110 judgment within ten days of the date the Supreme Court of the United States denies
1111 certiorari jurisdiction or within ten days of the date the Supreme Court of the United States
1112 affirms the judgment, then such person may petition the Superior Court of Fulton County
1113 for an order directing the Secretary of State to reduce such deposit or a portion thereof
1114 sufficient to pay the judgment to cash or its equivalent and to pay such judgment to the
1115 extent the judgment may be satisfied with the proceeds of the deposit. If there shall remain
1116 any residue from the deposit and if at least two years have passed since the expiration or
1117 revocation of the applicant's registration, the Secretary of State shall pay such residue to
1118 the applicant, taking his receipt for the residue, which shall be filed and recorded with the
1119 other papers of the case, unless there is pending against the applicant an action (including
1120 any direct appeal of such action, ~~or~~ an appeal based on a petition for certiorari jurisdiction,
1121 or a petition for review), of which the Secretary of State has notice, in a court of competent
1122 jurisdiction in which it is alleged that the applicant is liable for damages under this chapter,
1123 in which case the Secretary of State shall hold or dispose of such residue in accordance
1124 with the provisions of this subsection relating to the holding or disposing of the entire
1125 deposit. If more than one final judgment is rendered against the applicant for violation of
1126 this chapter, the judgment creditors shall be paid in full from such deposit or residue
1127 thereof, to the extent the deposit or residue is sufficient to pay the judgments, in the order
1128 in which the judgment creditors petitioned the Superior Court of Fulton County."

SECTION 2-34.

1129
1130 Said chapter is further amended by revising Code Section 43-17-17, relating to appeals, as
1131 follows:

1132 "43-17-17.

1133 (a) An appeal may be taken from any order of the Secretary of State resulting from a
1134 hearing held in accordance with Code Section 43-17-16 by any person adversely affected
1135 thereby to the Superior Court of Fulton County by serving the Secretary of State, within 20
1136 days after the date of entry of such order, a ~~written notice of appeal~~, copy of the petition
1137 for review filed in the Superior Court of Fulton County and signed by the appellant
1138 petitioner, stating:

1139 (1) The order from which the appeal is taken;

1140 (2) The ground upon which a reversal or modification of the order is sought; and

1141 (3) A demand for a certified transcript of the record of the order.

1142 (b) Upon receipt of the ~~notice of appeal~~ petition for review, the Secretary of State shall,
1143 within ten days thereafter, make, certify, and deliver to the ~~appellant~~ Superior Court of
1144 Fulton County a transcript of the record of the order from which the appeal is taken,
1145 provided that the appellant shall pay the reasonable costs of such transcript. ~~The appellant,~~
1146 ~~within five days after receipt of the transcript, shall file such transcript and a copy of the~~
1147 ~~notice of appeal with the clerk of the court.~~ The ~~notice of appeal~~ petition for review and
1148 transcript of the record shall constitute appellant's complaint. The complaint shall
1149 thereupon be entered on the trial calendar of the court.

1150 (c) If the order of the Secretary of State shall be reversed, the reviewing court shall by its
1151 mandate specifically direct the Secretary of State as to ~~his~~ any further action to be taken by
1152 the Secretary of State in the matter, including the making and entering of an order or orders
1153 in connection therewith and the conditions, limitations, or restrictions to be therein
1154 contained."

SECTION 2-35.

1155
1156 Article 3 of Chapter 7 or Title 44 of the Official Code of Georgia Annotated, relating to
1157 landlord and tenant dispossessory proceedings, is amended by revising Code
1158 Section 44-7-56, relating to appeal and possession and payment of rent pending appeal, as
1159 follows:

1160 "44-7-56.

1161 (a) Any judgment by the trial court shall be appealable pursuant to Chapters 2, 3, 6, and 7
1162 of Title 5, provided that any such appeal shall be filed within seven days of the date such
1163 judgment was entered and provided, further, that, after,

1164 (b) An appeal made pursuant to subsection (a) of this Code section shall proceed as
1165 follows:

1166 (1) A copy of the petition for review filed in the reviewing superior or state court or the
1167 notice of appeal is shall be filed with the clerk of the trial court within seven days after
1168 the date the judgment was entered in the trial court; the

1169 (2) The clerk shall immediately notify the trial judge of the petition for review or notice
1170 of appeal, and the trial judge may, within 15 days after the same is filed in the trial court,
1171 supplement the record with findings of fact and conclusions of law which will be
1172 considered as a part of the order of the judge in that case; and

1173 (3) If the judgment of the trial court is against the tenant and the tenant appeals this
1174 judgment, the tenant shall be required to notify the trial court of his or her appeal and pay
1175 into the registry of the reviewing superior or state court all sums found by the trial court
1176 to be due for rent in order to remain in possession of the premises; and

1177 (4) The tenant shall also be required to pay all future rent as it becomes due into the
1178 registry of the trial reviewing superior or state court pursuant to paragraph (1) of
1179 subsection (a) of Code Section 44-7-54 until the issue has been finally determined on
1180 appeal."

SECTION 2-36.

1181

1182 Code Section 44-7-115 of the Official Code of Georgia Annotated, relating to foreclosure of
1183 liens on abandoned or intact mobile homes, is amended by revising paragraph (8) as follows:

1184 "(8) Any order issued by the magistrate court shall be appealable pursuant to ~~Article 2~~
1185 ~~of Chapter 3 of Title 5~~, provided that any such appeal shall be filed within seven days ~~of~~
1186 after the date such order was entered and provided, further, that, after the ~~notice of appeal~~
1187 petition for review is filed with the clerk of the ~~trial~~ reviewing superior or state court, the
1188 clerk of such court shall immediately notify the magistrate court of the ~~notice of appeal~~
1189 petition for review. If the order of the magistrate court is against the responsible party
1190 and the responsible party appeals such order, the responsible party shall be required to
1191 pay into the registry of the reviewing superior or state court all sums found by the
1192 magistrate court to be due in order to remain in possession of the mobile home. The
1193 responsible party shall also be required to pay all future rent into the registry of the
1194 reviewing superior or state court as it becomes due in such amounts specified in
1195 paragraph (2) of this Code section until the issue has been finally determined on appeal."

SECTION 2-37.

1196

1197 Code Section 47-14-51 of the Official Code of Georgia Annotated, relating to payments to
1198 the Superior Court Clerks' Retirement Fund of Georgia from fees collected in certain civil
1199 actions and for recording of instruments pertaining to real estate, records, audit of records,
1200 use of sums remitted, and failure of clerk to remit, is amended by revising subsections (a) and
1201 (e) as follows:

1202 "(a) In addition to all other legal costs, the sum of \$1.00 shall be charged and collected in
1203 each civil suit, action, case, or proceeding filed in the superior courts or in any other court
1204 of this state in which a clerk eligible for membership in this retirement fund is clerk,
1205 including, without limiting the generality of the foregoing, all adoptions, charters, ~~certiorari~~
1206 petitions for review, applications by a personal representative for leave to sell or reinvest,

1207 trade name registrations, applications for change of name, and all other proceedings of a
1208 civil nature, filed in the superior courts or other such courts."

1209 "(e) The sum of \$1.00 shall be paid out of the fees charged and collected pursuant to
1210 Title 15 in each civil suit, action, case, or proceeding filed in the superior courts or in any
1211 other court of this state in which a clerk eligible for membership in this retirement fund is
1212 clerk and shall be remitted to the board as provided in subsection (c) of this Code section.
1213 Such fees shall include, without limiting the generality of the foregoing, all adoptions,
1214 charters, ~~certiorari~~ petitions for review, applications by a personal representative for leave
1215 to sell or reinvest, trade name registrations, applications for change of name, and all other
1216 proceedings of a civil nature filed in the superior courts or other such courts."

1217 **SECTION 2-38.**

1218 Code Section 47-16-61 of the Official Code of Georgia Annotated, relating to payments to
1219 the Sheriffs' Retirement Fund of Georgia from fees collected in civil actions, duty to record
1220 and remit sums collected, and penalties on delinquent amounts, is amended by revising
1221 subsections (a) and (b) as follows:

1222 "(a) In addition to all other legal costs, the sum of \$1.00 shall be charged and collected in
1223 each civil action, case, or proceeding, including, without limiting the generality of the
1224 foregoing, all adoptions, charters, ~~certiorari~~ petitions for review, applications by personal
1225 representative for leave to sell or invest, trade name registrations, applications for change
1226 of name, and all other proceedings of a civil nature filed in the superior courts. The clerks
1227 of the superior courts shall collect such fees, and the fees so collected shall be remitted to
1228 the board quarterly or at such other time as the board may provide. It shall be the duty of
1229 the clerks of the superior courts to keep accurate records of the amounts due the board
1230 under this subsection, and such records may be audited by the board at any time. The sums
1231 remitted to the board under this subsection shall be used only for the purposes provided for
1232 in this chapter.

1233 (b) In addition to all other legal costs, the sum of \$1.00 shall be charged and collected in
 1234 each civil action, case, or proceeding, including, without limiting the generality of the
 1235 foregoing, all adoptions, charters, ~~certiorari~~ petitions for review, applications by personal
 1236 representative for leave to sell or invest, trade name registrations, applications for change
 1237 of name, and all other proceedings of a civil nature filed in the state courts and magistrate
 1238 courts of this state in which the sheriff of the superior court also fulfills the function as
 1239 sheriff of such inferior court. The clerks of such state courts and magistrate courts shall
 1240 collect such fees, and the fees so collected shall be remitted to the board quarterly or at
 1241 such other time as the board may provide. It shall be the duty of the clerks of such state
 1242 courts and magistrate courts to keep accurate records of the amounts due the board under
 1243 this subsection, and such records may be audited by the board at any time. The sums
 1244 remitted to the board under this subsection shall be used only for the purposes provided for
 1245 in this chapter."

1246 SECTION 2-39.

1247 Code Section 48-5-311 of the Official Code of Georgia Annotated, relating to creation of
 1248 county boards of equalization, duties, review of assessments, and appeals, is amended by
 1249 revising paragraphs (2), (3), and (4) of subsection (g) as follows:

1250 "(2) An appeal by the taxpayer as provided in paragraph (1) of this subsection shall be
 1251 effected by emailing, if the county board of tax assessors has adopted a written policy
 1252 consenting to electronic service, or by mailing to or filing with the county board of tax
 1253 assessors a written ~~notice of appeal~~ petition for review. An appeal by the county board
 1254 of tax assessors shall be effected by giving ~~notice~~ a petition for review to the taxpayer.
 1255 The ~~notice~~ petition for review given to the taxpayer shall be dated and shall contain the
 1256 name and the last known address of the taxpayer. The ~~notice of appeal~~ petition for
 1257 review shall specifically state the grounds for appeal. The ~~notice~~ petition for review shall
 1258 be mailed or filed within 30 days from the date on which the decision of the county board

1259 of equalization, hearing officer, or arbitrator is delivered pursuant to
1260 subparagraph (e)(6)(D), paragraph (7) of subsection (e.1), or division (f)(3)(C)(ix) of this
1261 Code section. Within 45 days of receipt of a taxpayer's ~~notice of appeal~~ petition for
1262 review and before ~~certification of the appeal to the~~ the petition for review is filed in
1263 superior court, the county board of tax assessors shall send to the taxpayer notice that a
1264 settlement conference, in which the county board of tax assessors and the taxpayer shall
1265 confer in good faith, will be held at a specified date and time which shall be no later than
1266 30 days from the notice of the settlement conference, and notice of the amount of the
1267 filing fee for a petition for review, if any, required by the clerk of the superior court. A
1268 taxpayer may appear for the settlement conference in person, by his or her authorized
1269 agent or representative, or both. The county board of tax assessors, in their discretion and
1270 with the consent of the taxpayer, may alternatively conduct the settlement conference by
1271 audio or video teleconference or any other remote communication medium. The taxpayer
1272 may exercise a one-time option to reschedule the settlement conference to a different date
1273 and time acceptable to the taxpayer during normal business hours. After a settlement
1274 conference has convened, the parties may agree to continue the settlement conference to
1275 a later date. If at the end of the 45 day review period the county board of tax assessors
1276 elects not to hold a settlement conference, then the appeal shall terminate and the
1277 taxpayer's stated value shall be entered in the records of the board of tax assessors as the
1278 fair market value for the year under appeal and the provisions of subsection (c) of Code
1279 Section 48-5-299 shall apply to such value. If the taxpayer chooses not to participate in
1280 the settlement conference, he or she may not seek and shall not be awarded fees and costs
1281 at such time when the ~~appeal is settled~~ petition for review is reviewed in superior court.
1282 If at the conclusion of the settlement conference the parties reach an agreement, the
1283 settlement value shall be entered in the records of the county board of tax assessors as the
1284 fair market value for the tax year under appeal and the provisions of subsection (c) of
1285 Code Section 48-5-299 shall apply to such value. If at the conclusion of the settlement

1286 conference the parties cannot reach an agreement, then written notice shall be provided
1287 to the taxpayer that the filing fees for the superior court must be paid by the taxpayer by
1288 submitting to the county board of tax assessors a check, money order, or any other
1289 instrument payable to the clerk of the superior court within 20 days of the date of the
1290 conference, ~~with a copy of the check delivered to the county board of tax assessors.~~
1291 Notwithstanding any other provision of law to the contrary, the amount of the filing fee
1292 for an appeal under this subsection shall be \$25.00. An appeal under this subsection shall
1293 not be subject to any other fees or additional costs otherwise required under any provision
1294 of Title 15 or under any other provision of law. ~~Immediately following payment of such~~
1295 ~~\$25.00 filing fee by the taxpayer to the clerk of the superior court, the clerk shall remit~~
1296 ~~the proceeds thereof to the governing authority of the county which shall deposit the~~
1297 ~~proceeds into the general fund of the county.~~ Within 30 days of receipt of proof of
1298 payment the taxpayer's payment made out to the clerk of the superior court, or, in the case
1299 of a petition for review filed by the county board of tax assessors, within 30 days of
1300 giving notice of the petition for review to the taxpayer, the county board of tax assessors
1301 shall ~~certify to~~ file with the clerk of the superior court the ~~notice of appeal~~ petition for
1302 review and any other papers specified by the person appealing, including, but not limited
1303 to, the staff information from the file used by the county board of tax assessors, the
1304 county board of equalization, the hearing officer, or the arbitrator. Immediately
1305 following payment of such \$25.00 filing fee to the clerk of the superior court, the clerk
1306 shall remit the proceeds thereof to the governing authority of the county which shall
1307 deposit the proceeds into the general fund of the county. All papers and information
1308 ~~certified to~~ filed with the clerk shall become a part of the record on appeal to the superior
1309 court. At the time of ~~certification~~ the filing of the appeal petition for review, the county
1310 board of tax assessors shall serve the taxpayer and his or her attorney of record, if any,
1311 with a copy of the ~~notice of appeal~~ petition for review filed in the superior court and with
1312 the civil action file number assigned to the appeal. Such service shall be effected in

1313 accordance with subsection (b) of Code Section 9-11-5. No discovery, motions, or other
1314 pleadings may be filed by the county board of tax assessors in the appeal until such
1315 service has been made.

1316 (3) The appeal shall constitute a de novo action. The board of tax assessors shall have
1317 the burden of proving its opinions of value and the validity of its proposed assessment by
1318 a preponderance of evidence. Upon a failure of the board of tax assessors to meet such
1319 burden of proof, the court ~~may, upon motion or sua sponte, authorize the finding~~ shall
1320 find that the value asserted by the board of tax assessors is ~~unreasonable~~ incorrect and
1321 authorize the determination of the final value of the property.

1322 (4)(A) The appeal shall be placed on the court's next available jury or bench trial
1323 calendar, at the taxpayer's election, following the filing of the appeal unless continued
1324 by the court. If only questions of law are presented in the appeal, the appeal shall be
1325 heard as soon as practicable before the court sitting without a jury. Each hearing before
1326 the court sitting without a jury at the taxpayer's election shall be held within 30 days
1327 following the date on which the appeal is filed with the clerk of the superior court
1328 unless continued by the court for a period not to exceed 90 days.

1329 (B)(i) The county board of tax assessors shall use the valuation of the county board
1330 of equalization, the hearing officer, or the arbitrator, as applicable, in compiling the
1331 tax digest for the county.

1332 (ii)(I) If the final determination of value on appeal is less than the valuation thus
1333 used, the tax commissioner shall be authorized to adjust the taxpayer's tax bill to
1334 reflect the final value for the year in question.

1335 (II) If the final determination of value on appeal causes a reduction in taxes and
1336 creates a refund that is owed to the taxpayer, it shall be paid by the tax
1337 commissioner to the taxpayer, entity, or transferee who paid the taxes with interest,
1338 as provided in subsection (m) of this Code section.

1339 (III) If the taxpayer appeals to the superior court pursuant to this subsection and the
1340 final determination of value on appeal is 85 percent or less of the valuation set by
1341 the county board of equalization, hearing officer, or arbitrator as to any real
1342 property, the taxpayer, in addition to the interest provided for in subsection (m) of
1343 this Code section, shall recover costs of litigation and reasonable attorney's fees
1344 incurred in the action. Any appeal of an award of attorney's fees by the county shall
1345 be specifically approved by the governing authority of the county.

1346 (IV) If the board of assessors appeals to the superior court pursuant to this
1347 subsection and the final determination of value on appeal is 85 percent or less of the
1348 valuation set by the board of assessors as to any real property, the taxpayer, in
1349 addition to the interest provided for in subsection (m) of this Code section, shall
1350 recover costs of litigation and reasonable attorney's fees incurred in the action. Any
1351 appeal of an award of attorney's fees by the county shall be specifically approved
1352 by the governing authority of the county.

1353 (iii) If the final determination of value on appeal is greater than the valuation set by
1354 the county board of equalization, hearing officer, or arbitrator, as applicable, causes
1355 an increase in taxes, and creates an additional billing, it shall be paid to the tax
1356 commissioner as any other tax due along with interest, as provided in subsection (m)
1357 of this Code section."

1358 **PART III.**

1359 **SECTION 3-1.**

1360 This Act shall become effective on July 1, 2023, and shall apply to petitions for review filed
1361 in superior or state court on or after such date.

1362

SECTION 3-2.

1363 All laws and parts of laws in conflict with this Act are repealed.