

Senate Bill 171

By: Senators Burns of the 23rd, Gooch of the 51st, Rhett of the 33rd, Parent of the 42nd and Dixon of the 45th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 62 of Title 36 of the Official Code of Georgia Annotated, relating to  
2 development authorities, so as to limit the length of a director's hold-over period following  
3 expiration of term of office; to provide for vacancy in office at the end of such hold-over  
4 period; to authorize the General Assembly to adopt local legislation regarding specific  
5 individual development authorities; to amend Code Section 36-62A-21 of the Official Code  
6 of Georgia Annotated, relating to required training on development and redevelopment  
7 programs, so as to require directors to do yearly continuing education; to provide for  
8 suspension of voting eligibility of directors for failing to undertake such training; to make  
9 such continuing education a prerequisite for OneGeorgia Authority funding; to amend Part 3  
10 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to  
11 mechanics and materialmen liens, so as to provide that such liens may attach to the usufruct  
12 interest of properties owned by or titled in a development authority or downtown  
13 development authority; to provide for the levy and sale of such liens; to provide for the  
14 transfer of such liens in the event that the holder of the usufruct acquires or assumes an estate  
15 in the property; to provide for related matters; to repeal conflicting laws; and for other  
16 purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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18

**SECTION 1.**

19 Chapter 62 of Title 36 of the Official Code of Georgia Annotated, relating to development  
20 authorities, is amended by revising subsection (a) of Code Section 36-62-4, relating to  
21 development authorities created, appointment and terms of directors, quorum, and adoption  
22 and filing of resolution of need, as follows:

23 "(a) There is created in and for each county and municipal corporation in the state a public  
24 body corporate and politic to be known as the 'development authority' of such county or  
25 municipal corporation, which shall consist of a board of not less than seven and not more  
26 than nine directors to be appointed by resolution of the governing body of the county or  
27 municipal corporation. At the expiration of the current terms of office of the first four  
28 members of the board of directors, the governing body of the county or municipal  
29 corporation shall elect successors to such members to serve for initial terms of two years  
30 and shall elect successors to the remaining members of the board for initial terms of four  
31 years. Thereafter, the terms of all directors shall be for four years. The terms of any  
32 directors added to the original seven directors shall be four years. If, at the end of any term  
33 of office of any director, a successor thereto has not been elected, the director whose term  
34 of office has expired shall continue to hold office until his or her successor is so elected;  
35 provided, however, that such hold-over period shall not exceed six months. In the event  
36 that such six-month hold-over period expires without a successor being elected, the office  
37 of such director shall be vacant until a director is elected as provided for in this subsection."

38

**SECTION 2.**

39 Said chapter is further amended by revising Code Section 36-62-11, relating to construction  
40 of chapter generally, effect of conflict between chapter and other provisions of law, and  
41 applicability of certain other provisions of law to proceedings under chapter, as follows:

42 "36-62-11.

43 This chapter shall be liberally construed to effect the purposes hereof, and insofar as this  
44 chapter may be inconsistent with the provisions of the enabling Act of any other law,  
45 including county governing authority or the charter of any municipal corporation, this  
46 chapter shall be controlling; provided, however, that the General Assembly may provide  
47 by local law for additional provisions governing a particular authority established pursuant  
48 to this chapter. The sale or issuance of bonds by any authority shall not be subject to  
49 regulation under Chapter 5 of Title 10, the 'Georgia Uniform Securities Act of 2008,' or any  
50 other law. No proceeding or publication not required in this chapter shall be necessary to  
51 the performance of any act authorized in this chapter, nor shall any such act be subject to  
52 referendum."

53

### SECTION 3.

54 Code Section 36-62A-21 of the Official Code of Georgia Annotated, relating to required  
55 training on development and redevelopment programs, is amended as follows:

56 "36-62A-21.

57 (a) Except for a director who is also a member of the governing body of a municipal  
58 corporation or county, each director or member of the governing board or body of a  
59 development authority shall attend and complete at least eight hours of training on  
60 development and redevelopment programs within the first 12 months of the director's or  
61 member's appointment to the development authority. ~~Directors and members in office on~~  
62 ~~January 1, 2000, shall be exempt from this requirement unless reappointed for an additional~~  
63 ~~term.~~

64 (b) After July 1, 2024, directors or members required to complete the training provided for  
65 in subsection (a) of this Code section shall also attend and complete at least two hours of  
66 continuing training on development and redevelopment programs each year such director

67 or member is a director or member of such authority. Such training can occur either in  
68 person or online.

69 (c) Any director who fails to undertake the continuing training required by subsection (b)  
70 of this Code section for two consecutive years shall have his or her voting rights on any  
71 authority suspended until the director completes the required continuing training.

72 (d) After July 1, 2024, the training required by this Code section shall be a prerequisite for  
73 any authority to access funding from or administered by the OneGeorgia Authority  
74 established pursuant to Chapter 34 of Title 50."

75 **SECTION 4.**

76 Part 3 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,  
77 relating to mechanics and materialmen liens, is amended by revising Code  
78 Section 44-14-361, relating to creation of liens, property to which lien attaches, and items  
79 to be included in lien, as follows:

80 "44-14-361.

81 (a) The following persons shall each have a special lien on the real estate, factories,  
82 railroads, or other property for which they furnish labor, services, or materials:

83 (1) All mechanics of every sort who have taken no personal security for work done and  
84 material furnished in building, repairing, or improving any real estate of their employers;

85 (2) All contractors, all subcontractors and all materialmen furnishing material to  
86 subcontractors, and all laborers furnishing labor to subcontractors, materialmen, and  
87 persons furnishing material for the improvement of real estate;

88 (3) All registered architects furnishing plans, drawings, designs, or other architectural  
89 services on or with respect to any real estate;

90 (4) All registered foresters performing or furnishing services on or with respect to any  
91 real estate;

- 92 (5) All registered land surveyors and registered professional engineers performing or  
93 furnishing services on or with respect to any real estate;
- 94 (6) All contractors, all subcontractors and materialmen furnishing material to  
95 subcontractors, and all laborers furnishing labor for subcontractors for building factories,  
96 furnishing material for factories, or furnishing machinery for factories;
- 97 (7) All machinists and manufacturers of machinery, including corporations engaged in  
98 such business, who may furnish or put up any mill or other machinery in any county or  
99 who may repair the same;
- 100 (8) All contractors to build railroads;
- 101 (9) All suppliers furnishing rental tools, appliances, machinery, or equipment for the  
102 improvement of real estate; and
- 103 (10) All registered interior designers furnishing plans, drawings, designs, or other  
104 interior design services on or with respect to any real estate.
- 105 (b) Each special lien specified in subsection (a) of this Code section may attach to the real  
106 estate of the owner for which the labor, services, or materials are furnished if they are  
107 furnished at the instance of the owner, contractor, or some other person acting for the  
108 owner or contractor and shall include the value of work done and materials furnished in any  
109 easement or public right of way adjoining said real estate if the work done or materials  
110 furnished in the easement or public right of way is for the benefit of said real estate and is  
111 within the scope of the owner's contract for improvements to said real estate.
- 112 (b.1) Notwithstanding any provisions of subsection (b) of this Code section or any  
113 provision of Georgia law limiting or prohibiting the attachment of liens to public property  
114 to the contrary, in the event that the real estate for which the labor, services, or materials  
115 are furnished is owned by or titled to a development authority or downtown development  
116 authority, regardless of whether such authority was created by constitutional, general, or  
117 local law, each special lien specified in subsection (a) of this Code section may attach to  
118 a usufruct interest in such property if such labor, services, or materials are furnished at the

119 instance of the holder of the usufruct to such property, contractor, or some other person  
120 acting for the holder of such usufruct or contractor, and shall include the value of work  
121 done and materials furnished in any easement or public right of way adjoining said real  
122 estate if the work done or materials furnished in the easement or public right of way is for  
123 the benefit of said real estate and is within the scope of the usufruct holder's contract for  
124 improvements to said real estate. A lien attaching to a usufruct interest pursuant to this  
125 subsection shall be subject to levy and sale notwithstanding any provision of statutory or  
126 common law to the contrary. In the event that the holder of such usufruct acquires or  
127 assumes a legal estate in the property, any lien attaching to the usufruct pursuant to this  
128 subsection shall attach to such estate as it originally attached to the property pursuant to  
129 subsection (b) of this Code section.

130 (c) Each special lien specified in subsection (a) of this Code section shall include the  
131 amount due and owing the lien claimant under the terms of its express or implied contract,  
132 subcontract, or purchase order subject to subsection (e) of Code Section 44-14-361.1.

133 (d) Each special lien specified in subsection (a) of this Code section shall include interest  
134 on the principal amount due in accordance with Code Section 7-4-2 or 7-4-16."

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## **SECTION 5.**

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