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ACTS AND RESOLUTIONS OF THE GENERAL ASSEMBLY OF THE STATE OF GEORGIA 1989

ACTS AND RESOLUTIONS OF THE GENERAL ASSEMBLY OF THE STATE OF GEORGIA 1989

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Sequential Number: 004

Short Title: OFFICIAL CODE OF GEORGIA ANNOTATED -- CORRECTIONS AND REENACTMENT.

Law Number: No. 7

Origin: (House Bill No. 93).

Type: AN ACT

To amend the Official Code of Georgia Annotated, so as to correct typographical, stylistic, capitalization, punctuation, and other errors and omissions in the Official Code of Georgia Annotated and in Acts of the General Assembly amending the Official Code of Georgia Annotated; to reenact the statutory portion of the Official Code of Georgia Annotated, as amended; to provide for necessary or appropriate revisions and modernizations of matters contained in the Official Code of Georgia Annotated; to provide for and to correct citations in the Official Code of Georgia Annotated and other codes and laws of the state; to provide for other matters relating to the Official Code of Georgia Annotated; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

Section 1. Reserved.

Section 2. Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended as follows:

(1) By striking "anti-syphon" and inserting in lieu thereof "anti-siphon" both times it appears in subsection (a) and once in subsection (c) of Code Section 2-1-4, relating to anti-siphon devices for irrigation systems.

Section 3. Reserved.

Section 4. Reserved.

Section 5. Reserved.

Section 6. Reserved.

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Section 7. Title 7 of the Official Code of Georgia Annotated, relating to banking and finance, is amended as follows:

- (1) By striking "paragraph (2)" and inserting in lieu thereof "paragraph" in paragraph (2) of subsection (b) of Code Section 7-1-99, relating to duties of the department regarding interest and usury complaints.
- (2) By striking "subsections (c) and (d)" and inserting in lieu thereof "this subsection and subsection (c)" in paragraph (4) of subsection (d) of Code Section 7-1-115, relating to winding up voluntary dissolution proceedings.
- (3) By striking the periods at the end of paragraphs (1) and (2) of Code Section 7-1-746, relating to right to deal in a corporation's stock or obligations, and inserting in lieu thereof semicolons and by striking the period and inserting in lieu thereof "; and" at the end of paragraph (3) of said Code section.
- (4) By striking "; or" from the end of paragraph (1) of subsection (c) of Code Section 7-1-947, relating to application for membership in small minority business development corporation, and inserting in lieu thereof a semicolon and by striking paragraph (3) of that subsection and inserting in lieu thereof the following:
 - "(3) Seven hundred fifty thousand dollars."
- (5) By striking "commissioner" wherever it appears in Chapter 3, the "Georgia Industrial Loan Act," and inserting in lieu thereof "Commissioner."

- (6) By striking "industrial loan commissioner" and inserting in lieu thereof "Industrial Loan Commissioner" in paragraph (1) of Code Section 7-3-3, relating to definitions regarding industrial loans.
- (7) By striking "collectible" and inserting in lieu thereof "collectable" in Code Section 7-4-12, relating to interest on judgments.
- (8) By striking "industrial loan commissioner" and inserting in lieu thereof "Industrial Loan Commissioner" both times it appears and by striking "Title 7" and inserting in lieu thereof "this

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title" in Code Section 7-4-19, relating to civil actions for certain enforcement proceedings.

Section 8. Title 8 of the Official Code of Georgia Annotated, relating to buildings and housing, is amended as follows:

- (1) By striking "are prepared" and inserting in lieu thereof "is prepared" and by striking "their submission" and inserting in lieu thereof "its submission" in subsection (c) of Code Section 8-2-24, regarding an advisory committee for certain state codes.
- (2) By striking "state-owned" and inserting in lieu thereof "state owned" in subsection (b) of Code Section 8-2-27, relating to conformance of building design to certain energy codes.
- (3) By striking "Mobile Home" and inserting in lieu thereof "Manufactured Housing" in paragraph (2) of Code Section 8-2-131, relating to definitions regarding manufactured homes.
- (4) By striking "forebear" and inserting in lieu thereof "forbear" in paragraph (5) of subsection (b) of Code Section 8-3-35, relating to legislative findings and additional powers of housing authorities.
- (5) By striking "duties" and inserting in lieu thereof "duties," in subsection (c) of Code Section 8-3-51, relating to vesting of housing authority powers.
- (6) By striking "insurance associations" and inserting in lieu thereof "insurance associations," and by striking "guardians, trustees" and inserting in lieu thereof "guardians, trustees," in Code Section 8-3-81, relating to investments in housing authority obligations.
- (7) By striking "article" and inserting in lieu thereof "part" in paragraph (25) of subsection (a) and by striking "the `Georgia Residential Finance Authority Act,' " and inserting in lieu thereof

"this part" in paragraph (30) of subsection (a) of Code Section 8-3-176, relating to powers of the Georgia Residential Finance Authority.

- (8) By striking the periods at the end of paragraphs (1), (2), (4), (5), (6), and (7) of subsection (e) and inserting semicolons in

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lieu thereof, by striking the period at the end of subparagraph (e)(3)(E) and inserting in lieu thereof a semicolon, and by striking the period and inserting in lieu thereof "; and" at the end of paragraph (8) of subsection (e) of Code Section 8-3-177, relating to loans by the Georgia Residential Finance Authority.

- (9) By striking "rental of," and inserting in lieu thereof "rental of" in division (b)(1)(A)(ii) and by striking "twenty-four" and inserting in lieu thereof "24" in paragraph (2) of subsection (b) of Code Section 8-3-202, relating to unlawful practices in selling or renting dwellings.
- (10) By striking "by an other" and inserting in lieu thereof "by any other" in subsection (f) of Code Section 8-3-209, relating to investigations regarding fair housing.

Section 9. Reserved.

Section 10. Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is amended as follows:

- (1) By striking the comma following "July 1" in the last sentence of division (b)(12)(H)(i), by striking "term of any" and inserting in lieu thereof "term or any" in subparagraph (b)(12)(J), and by striking "matter" and inserting in lieu thereof "manner" in the next-to-last sentence in subparagraph (b)(16)(D) of Code Section 10-1-393, relating to unfair or deceptive practices in consumer transactions which are unlawful.
- (2) By striking "re-register" and inserting in lieu thereof "register" in subsection (a) of Code Section 10-1-490, relating to business using trade, partnership, or other name not showing ownership to file registration statement.
- (3) By striking "Chapter 9" and inserting in lieu thereof "Chapter 9 or Chapter 9A" in Code Section 10-1-492, relating to exemption of corporations and limited or professional partnerships from the provisions of Part 2 of Article 16 of **Chapter 1** of this title.
- (4) By striking "legislature" and inserting in lieu thereof "the General Assembly" in subsection (b) of Code Section 10-4-5, relating to powers and duties of the Commissioner of Agriculture

with respect to state licensed and bonded warehouses.

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- (5) By striking "legislature" and inserting in lieu thereof "General Assembly" in subsection (b) of Code Section 10-4-6, relating to procedure for adopting or changing rules and regulations relating to warehousing practices.
- (6) By striking "Insurance Commissioner" and inserting in lieu thereof "Commissioner of Insurance" in Code Section 10-4-25, relating to when insurance on stored products required.
- (7) By striking "State Insurance Commissioner" and inserting in lieu thereof "Commissioner of Insurance" in Code Section 10-4-103, relating to insurance as a prerequisite for license under Part 1 of Article 3 of Chapter 4 of this title.
- (8) By striking "Insurance Commissioner" and inserting in lieu thereof "Commissioner of Insurance" in Code Section 10-4-143, relating to fire and extended coverage insurance on stored tobacco.
- (9) By striking "short-" and inserting in lieu thereof "short-term debt" in subparagraph (c)(1)(H) of Code Section 10-5-5, relating to registration of securities.
- (10) By striking "the Georgia Securities Act of 1957 or" and inserting in lieu thereof "the `Georgia Securities Act of 1957' or" in paragraphs (1) and (2) of subsection (k) and by striking "3:00 P.M." and inserting in lieu thereof "Three o'clock P.M." in subparagraph (k)(2)(A) of Code Section 10-5-6, relating to registration of securities.
- (11) By adding the word "or" at the end of subparagraph (d)(1)(B) of Code Section 10-5-14, relating to civil liabilities from sales of securities.
- (12) By striking "semi-precious" and inserting in lieu thereof "semiprecious" in paragraph (3) of Code Section 10-5A-1, relating to definitions used in Chapter 5A of this title.
- (13) By striking "commissioner" and inserting in lieu thereof "Commissioner" in subsection (b) of Code Section 10-5A-24, relating to the office of Commissioner of Securities.
- (14) By striking "theatres" and inserting in lieu thereof "theatres" in paragraph (3) of Code Section 10-9-3, relating to definitions under the "Geo. L. Smith II Georgia World Congress Center Act."

- (15) By adding at the end of Code Section 10-9-3, relating to definitions under the "Geo. L. Smith II World Congress Center Act," a new paragraph (4) to read as follows:
 - "(4) `Stadium' means a fully enclosed, climate controlled, multipurpose sports exhibition hall in which public participation in financing shall not exceed 30 percent of the cost of the project, including the purchase of land, construction of the stadium, and the operation thereof."

- (16) By striking paragraphs (12) through (15) of subsection (b) of Code Section 10-9-4, relating to the purpose of the Geo. L. Smith II Georgia World Congress Center Authority, and inserting in lieu thereof the following:
 - "(12) To exercise any power usually possessed by private corporations performing similar functions which is not in conflict with the Constitution and the laws of the State of Georgia; and

 - (13) To do all things necessary or convenient to carry out the powers expressly given in this chapter.

 - (c) Said authority shall comply with all applicable state budgetary processes and procedures as relate to compensation of employees of the authority."

- (17) By striking "theatres" and inserting in lieu thereof "theatres" in subsection (c) of Code Section 10-9-16.1, relating to the authority of the Geo. L. Smith II Georgia World Congress Center Authority to contract with counties and municipalities.

Section 11. Reserved.

Section 12. Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural resources, is amended as follows:

- (1) By striking "Title 12" and inserting in lieu thereof "this title" in Code Section 12-4-51, relating to the effect of the "Ground Water Use Act of 1972" on the "Oil and Gas and Deep Drilling Act of 1975."
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- (2) By striking "Code Sections 12-13-9(f) and 12-13-9(g)" and inserting in lieu thereof "subsections (f) and (g) of Code Section 12-13-9" in subsection (c) of Code Section 12-13-2, relating to the public policy of the "Georgia Underground Storage Tank Act."
- (3) By striking paragraphs (11), (13), (15), and (16) of Code Section 12-13-3, relating to definitions of terms used in the "Georgia Underground Storage Tank Act," and inserting in lieu thereof new paragraphs (11), (13), (15), and (16) to read as follows:
 - "(11) `Petroleum' means petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60) degrees Fahrenheit and 14.7 pounds per square inch absolute)."
 - "(13) `Regulated substance' means any substance defined in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, as amended by P.L. 99-499, 1986, et seq., and petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), but not including any substance regulated as a hazardous waste under Article 3 of Chapter 8 of this title, the `Georgia Hazardous Waste Management Act,' as amended."
 - "(15) `Terminal' means a bulk storage facility for storing petroleum products supplied by pipeline or marine vessel."
 - "(16) `Underground storage tank' means any one or combination of tanks, including underground pipes connected thereto, which is used to contain an accumulation of regulated substances and the volume of which, including the volume of the underground pipes connected thereto, is 10 percent or more beneath the surface of the ground."
- (4) By striking paragraphs (4) and (6) of Code Section 12-13-4, relating to exceptions under the "Georgia Underground Storage Tank Act," and inserting in lieu thereof new paragraphs (4) and (6) to read as follows:
 - "(4) Any pipeline facility, including gathering lines:

- (A) Regulated under the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. 1671, et seq.;
 - (B) Regulated under the Hazardous Liquid Pipeline Safety Act of 1979, 49 U.S.C. 2001, et seq.; or
 - (C) Which is an intrastate pipeline facility regulated under state law comparable to the provisions of law referred to in subparagraph (A) or (B) of this paragraph;"
- "(6) Any storm-water or waste-water collection system;"
- (5) By striking "Underground Storage Trust Fund" and inserting in lieu thereof "Underground Storage Tank Trust Fund" in subsection (f) of Code Section 12-13-9, relating to financial responsibility and claims under the "Georgia Underground Storage Tank Act."
- (6) By striking "the effective date of this chapter" and inserting in lieu thereof "July 1, 1988," in subsection (c) of Code Section 12-13-13, relating to notification by owners of underground storage tanks.
- (7) By striking "herein provided" and inserting in lieu thereof "provided in such Code section" in Code Section 12-13-16, relating to hearings and review under the "Georgia Underground Storage Tank Act."

Section 13. Title 13 of the Official Code of Georgia Annotated, relating to contracts, is amended as follows:

- (1) By deleting the comma between "building" and "structure" in subsection (b) of Code Section 13-8-2, relating to contracts contravening public policy.
- (2) By striking "representatives" and inserting in lieu thereof "representative" in the introductory language of subsection (c), by adding "of this paragraph" following "subparagraph (B)" and by striking "representatives" and inserting in lieu thereof "representative" in subparagraph (c)(3)(A), and by adding a comma between "thereof" and "to" in paragraph (5) of subsection (c) of Code Section 13-8-15, relating to unfair methods of competition and unfair or deceptive acts or practices.

- (3) By striking "herein" and inserting in lieu thereof "in this subsection" in paragraph (3), by striking "hereinabove specified" and inserting in lieu thereof "as specified in this subsection" in paragraph (4), and by striking "hereunder" and inserting in lieu thereof "pursuant to this subsection" in paragraph (6) of subsection (c) of Code Section 13-8-16, relating to the return of surplus parts inventory.
- (4) By striking "hereunder" and inserting in lieu thereof "under this subsection" in subsection (a) and by striking "herein" and inserting in lieu thereof "in this subsection" in subsection (b) of Code Section 13-8-17, relating to warranty agreements.
- (5) By striking "herein" and inserting in lieu thereof "in this subsection" in Code Section 13-8-19, relating to the failure to renew, termination of, or restriction on transfer of a franchise without due cause.
- (6) By striking "herein" and inserting in lieu thereof "by this subsection" in subsection (b) of Code Section 13-8-22, relating to the repurchase of inventory upon termination of a franchise.
- (7) By adding a comma between "contract" and "and" in Code Section 13-8-23, relating to the repurchase of inventory upon the death or incapacity of a dealer or majority stockholder of a corporate dealer.
- (8) By striking "representatives" and inserting in lieu thereof "representative" in the introductory language of subsection (c) and by adding "of this paragraph" following "subparagraph (B)" and striking "representatives" and inserting in lieu thereof "representative" in subparagraph (c)(3)(A) of Code Section 13-8-35, relating to unfair methods of competition.
- (9) By striking "herein" and inserting in lieu thereof "in this subsection" in paragraph (3), by striking "hereinabove specified" and inserting in lieu thereof "as specified in this subsection" in paragraph (4), and by striking "hereunder" and inserting in lieu thereof "pursuant to this subsection" in paragraph (6) of subsection (c) of Code Section 13-8-36, relating to the return of surplus parts in inventory.

- (10) By striking "herein" and inserting in lieu thereof "in this Code section" in Code Section 13-8-39, relating to the failure to renew, termination of, or restriction on the transfer of a franchise without due cause.
- (11) By adding a comma between "contract" and "and" in Code Section 13-8-43, relating to the repurchase of inventory upon the death or incapacity of a dealer or majority stockholder of a

corporate dealer.

Section 14. Reserved.

Section 15. Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended as follows:

(1) By striking "Chapter 9" and inserting in lieu thereof "Chapter 9A" in paragraph (11) of subsection (e) of Code Section 15-6-77, relating to fees of clerks of the superior courts.

Section 16. Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is amended as follows:

- (1) By striking the word "have" between "or" and "been" and inserting in lieu thereof the word "has" in paragraph (7) of Code Section 16-9-92, relating to definitions in computer related offenses.
- (2) By striking subparagraph (c)(2)(N) of Code Section 16-10-51, relating to bail jumping generally, which reads as follows:

○

"(N) Conversion of leased personal property, as provided in Code Section 16-8-19;"

and inserting in lieu thereof the following:

"(N) Reserved;"

- (3) By striking "an" and inserting in lieu thereof "on" in paragraph (2) of Code Section 16-10-97, relating to intimidation or injury of grand or petit juror or court officer.
- (4) By striking "subsection" and inserting in lieu thereof "paragraph" in paragraph (2) of Code Section 16-11-33, relating to unlawful assembly.

- (5) By striking "law or a felony" and inserting in lieu thereof "law of a felony" in subsection (d) of Code Section 16-11-131, relating to possession of firearms by convicted felons and first offender probationers.

- (6) By striking "military identification" and inserting in lieu thereof "military identification card" in paragraph (5) of Code Section 16-12-170, relating to definitions of terms relating to the sale or possession of cigarettes and tobacco related objects by minors.
- (7) By striking "ANDA" and inserting in lieu thereof "NDA" in paragraph (2) of subsection (a) of Code Section 16-13-4, relating to approval by the Food and Drug Administration as a prerequisite to sale of controlled substances.
- (8) By adding a comma between "drug" and "he" and between "case" and "place" in subsection (a) of Code Section 16-13-73, relating to labeling of containers containing dangerous drugs.
- (9) By striking Code Section 16-14-3, relating to definitions in the Georgia RICO Act and inserting in lieu thereof a new Code Section 16-14-3 to read as follows:

"16-14-3. As used in this chapter, the term:

- (1) `Alien corporation' means a corporation organized under laws other than the laws of the United States or the laws of any state of the United States.
- (2)
 - (A) `Beneficial interest' means either of the following:
 - (i) The interest of a person as a beneficiary under any other trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of such person; or
 - (ii) The interest of a person under any other form of express fiduciary arrangement pursuant to which any other person holds legal or record title to real property for the benefit of such person.

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- (B) `Beneficial interest' does not include the interest of a stockholder in a corporation or the interest of a partner in either a general partnership or limited partnership. A beneficial interest shall be deemed to be located where the real property owned by the

trustee is located.

- (3) `Civil proceeding' means any civil proceeding commenced by an investigative agency under any provision of this chapter.
- (4) `Criminal proceeding' means any criminal proceeding commenced by an investigative agency under any provision of this chapter.
- (5) `Documentary material' means any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.
- (6) `Enterprise' means any person, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity; or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental as well as other entities.
- (7) `Investigative agency' means the Department of Law or the office of any district attorney.
- (8) `Pattern of racketeering activity' means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one of such incidents occurred after July 1, 1980, and that the last of such incidents occurred within four years, excluding any periods of imprisonment, after the commission of a prior incident of racketeering activity.

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- (9)
 - (A) `Racketeering activity' means to commit, to attempt to commit, or to solicit, coerce, or intimidate another person to commit any crime which is chargeable by indictment under the following laws of this state:

- (i) Article 2 of **Chapter 13** of this title, relating to controlled substances;
- (ii) Article 3 of **Chapter 13** of this title, known as the `Dangerous Drugs Act';
- (iii) Subsection (j) of Code Section 16-13-30, relating to marijuana;
- (iv) Article 1 of Chapter 5 of this title, relating to homicide;
- (v) Article 2 of Chapter 5 of this title, relating to bodily injury and related offenses;
- (vi) Article 3 of Chapter 7 of this title, relating to arson;
- (vii) Code Section 16-7-1, relating to burglary;
- (viii) Code Section 16-9-1, relating to forgery in the first degree;
- (ix) Article 1 of Chapter 8 of this title, relating to theft;
- (x) Article 2 of Chapter 8 of this title, relating to robbery;
- (xi) Code Sections 16-6-9 through 16-6-12 and 16-6-14, relating to prostitution and pandering;
- (xii) Code Section 16-12-80, relating to distributing obscene materials;
- (xiii) Code Section 16-10-2, relating to bribery;

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- (xiv) Code Section 16-10-93, relating to influencing witnesses;
- (xv) Article 4 of **Chapter 10** of this title and Code Sections

16-10-20, 16-10-23, 16-10-91, and 16-10-95, relating to perjury and other falsifications;

- (xvi) Code Section 16-10-94, relating to tampering with evidence;
- (xvii) Code Section 16-12-22, relating to commercial gambling;
- (xviii) Code Section 3-3-27, relating to distilling or making liquors;
- (xix) Part 2 of Article 4 of **Chapter 11** of this title, known as the `Georgia Firearms and Weapons Act';
- (xx) Code Section 16-8-60, relating to unauthorized transfers and reproductions of recorded material;
- (xxi) Code Section 10-5-24, relating to violations of the `Georgia Securities Act of 1973';
- (xxii) Code Section 3-3-27, relating to the unlawful distillation, manufacture, and transportation of alcoholic beverages;
- (xxiii) Code Sections 16-9-31, 16-9-32, 16-9-33, and 16-9-34, relating to the unlawful use of financial transaction cards;
- (xxiv) Code Section 40-3-90, relating to certain felonies involving certificates of title, security interest, or liens concerning motor vehicles;
- (xxv) Code Section 40-4-21, relating to removal or falsification of identification numbers;

- (xxvi) Code Section 40-4-22, relating to possession of motor vehicle parts from which the identification has been

removed;

- (xxvii) Code Section 16-9-70, relating to use of an article with an altered identification mark;
 - (xxviii) Article 6 of Chapter 9 of this title, known as the `Georgia Computer Systems Protection Act';
 - (xxix) Any conduct defined as `racketeering activity' under 18 U.S.C. 1961 (1)(A), (B), (C), and (D);
 - (xxx) Article 3 of Chapter 5 of this title, relating to kidnapping, false imprisonment, and related offenses, except for Code Section 16-5-44, relating to aircraft hijacking; or
 - (xxxi) Code Section 16-11-37, relating to terroristic threats and acts.
- (B) `Racketeering activity' shall also mean any act or threat involving murder, kidnapping, gambling, arson, robbery, theft, receipt of stolen property, bribery, extortion, obstruction of justice, dealing in narcotic or dangerous drugs, or dealing in securities which is chargeable under the laws of the United States or any of the several states and which is punishable by imprisonment for more than one year.
- (10) `Real property' means any real property situated in this state or any interest in such real property, including, but not limited to, any lease of or mortgage upon such real property.
 - (11) `RICO lien notice' means the notice described in Code Section 16-14-13.
 - (12)
 - (A) `Trustee' means either of the following:

- (i) Any person who holds legal or record title to real property for which any other person has a beneficial interest; or
 - (ii) Any successor trustee or trustees to any of the foregoing persons.
- (B) `Trustee' does not include the following:
- (i) Any person appointed or acting as a personal representative under Title 29, relating to guardian and ward, or under Chapter 6 of Title 53, relating to the administration of estates; or
 - (ii) Any person appointed or acting as a trustee of any testamentary trust or as trustee of any indenture of trust under which any bonds are or are to be issued."

Section 17. Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is amended as follows:

(1) By adding a comma after "retarded" in subparagraph (b)(1)(E), by striking "30 days evaluation" and inserting in lieu thereof "30 days' evaluation" in the first and fourth sentences of subsection (e), by adding "of Title 37 or Chapter" preceding "4 of Title 37," in the seventh sentence of subsection (e), by striking "upon the defendant being" and inserting in lieu thereof "upon the defendant's being" in subsection (i), and by striking "the effective date of this subsection," and inserting in lieu thereof "July 1, 1988," in subsection (j) of Code Section 17-7-131, relating to proceedings upon plea of insanity or mental incompetency at time of crime.

Section 18. Reserved.

Section 19. Reserved.

Section 20. Title 20 of the Official Code of Georgia Annotated, relating to education, is amended as follows:

(1) By striking subsection (a) of Code Section 20-2-853, relating to payment for unused sick leave, and by designating subsections (b) and (c) thereof as subsections (a) and (b), respectively.

Section 21. Reserved.

Section 22. Reserved.

Section 23. Reserved.

Section 24. Title 24 of the Official Code of Georgia Annotated, relating to evidence, is amended as follows:

(1) By adding "that" between "of" and "employee" in subparagraph (t)(1)(C) of Code Section 24-9-47, relating to the disclosure of AIDS confidential information.

Section 25. Reserved.

Section 26. Reserved.

Section 27. Reserved.

Section 28. Reserved.

Section 29. Reserved.

Section 30. Reserved.

Section 31. Title 31 of the Official Code of Georgia Annotated, relating to health, is amended as follows:

- (1) By striking "chapter" and inserting in lieu thereof "Code section" in subsection (f) of Code Section 31-1-3.1, relating to reporting handicapped newborn persons.
- (2) By deleting "advanced emergency medical technician," from subparagraph (a)(9)(I) of Code Section 31-22-9.1, relating to who may perform HIV tests.

Section 32. Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries, is amended as follows:

(1) By striking "above-provided" and inserting in lieu thereof "provided in this Code section" in subsection (c) of Code Section 32-10-69, relating to conveyance of highway rights of way to the State Tollway Authority.

Section 33. Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended as follows:

- (1) By striking the last sentence of subsection (c) of Code Section 33-3-23, relating to restrictions as to the transaction of insurance by certain organizations, and inserting in its place a new sentence to read as follows:

"Application shall be made within 60 days from the date the applicant shall again become eligible."

- (2) By striking subparagraph (a)(1)(B) of Code Section 33-24-28.1, relating to provisions in accident and sickness insurance plans or policies for the coverage of treatment for mental disorders, and inserting in its place a new subparagraph (a)(1)(B) to read as follows:
 - "(B) A group or blanket accident and sickness insurance policy or contract, as defined in Chapter 30 of this title;"
 - (3) By striking "commissioner of public safety" and inserting in lieu thereof "Commissioner of Insurance" in paragraph (12) of Code Section 33-34-2, relating to definitions.
 - (4) By striking paragraph (1) of subsection (b) of Code Section 33-34-11, relating to the cancellation of motor vehicle insurance coverage, and inserting in its place a new paragraph (1) to read as follows:
 - "(1) Upon receipt of notification of cancellation, the department shall send a notice to the owner of the motor vehicle stating that the department has been informed of the fact of the cancellation and informing such owner of the penalties outlined in this Code section."
 - (5) By striking "state revenue commissioner" and inserting in lieu thereof "Commissioner" in subsection (b) of Code Section 33-38-22, relating to premium tax liability offsets and refunds offset against taxes.
 - (6) By striking "33-41-15" and inserting in lieu thereof "33-41-14" in paragraph (2) of subsection (c) of Code Section 33-41-3, relating to permissible business of a captive insurance company.
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- (7) By striking "33-41-19" and inserting in lieu thereof "33-41-18" in subdivision (a)(2)(A)(vi) of Code Section 33-41-10, relating to the application for and issuance of a certificate of authority for a captive insurance company.
- (8) By striking "33" and inserting in lieu thereof "9" in paragraph (3) of subsection (a) of Code Section 33-41-20, relating to the exclusion of a captive insurance company from membership in an insolvency fund and other plans or associations.

Section 34. Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations, is amended as follows:

- (1) By striking "No employer shall fail or refuse to hire, discharge, or discriminate against any handicapped individual" and inserting in lieu thereof "No employer shall fail or refuse to hire nor shall any employer discharge or discriminate against any handicapped individual" in subsection (a) of Code Section 34-6A-4, relating to prohibited discriminatory activities.
- (2) By striking "is greater" and inserting in lieu thereof "occurs first" at the end of subsection (e) of Code Section 34-9-13, relating to persons presumed dependent upon an employee for purposes of workers' compensation.
- (3) By striking "this proviso shall in no wise restrict" and inserting in lieu thereof "this proviso shall in no way restrict" in subsection (a) of Code Section 34-9-121, relating to the employer's duty to secure workers' compensation insurance.
- (4) By striking "Code Section 34-11-10" and inserting in lieu thereof "Code Section 34-11-14" in paragraphs (12) and (13) of subsection (a) of Code Section 34-11-7, relating to exceptions to the "Boiler and Pressure Vessel Safety Act."

Section 35. Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and agencies, is amended as follows:

- (1) By adding "and" at the end of paragraph (4) of subsection (a), by striking the semicolon and inserting in lieu thereof a period at the end of subparagraph (a)(5)(A), by deleting "and" from

the end of paragraph (1) of subsection (c), and by adding "and" at the end of paragraph (2) of subsection (c) of Code Section 35-2-33, relating to duties of the Uniform Division of the Department of Public Safety.

Section 36. Title 36 of the Official Code of Georgia Annotated, relating to law enforcement officers and agencies, is amended as follows:

- (1) By striking "of this Code" in paragraph (2) of subsection (c) of Code Section 36-1-22, relating to business and occupational license taxes and fees.
- (2) By striking Code Section 36-1-23, relating to preservation and protection of abandoned or unmaintained cemeteries, and inserting in lieu thereof a new Code Section 36-1-23, to read as follows:

"36-1-23. Reserved.",

and by adding to Chapter 60 of **Title 36**, relating to general provisions applicable to counties and municipal corporations, a new Code Section 36-60-6.1 to read as follows:

- "36-60-6.1. (a) As used in this Code section, the term 'preserve and protect' means to keep safe from destruction, peril, or other adversity and may include the placement of signs, markers, fencing, or other such appropriate features so as to identify the site as a cemetery and so as to aid in the preservation and protection of such abandoned cemetery.
- (b) Counties or municipalities are authorized to preserve and protect any cemetery which the county or municipality determines has been abandoned or is not being maintained and to expend public money in connection therewith."
- (3) By striking "similar arrangement" and inserting in lieu thereof "similar arrangements" in subparagraph (a)(13)(G) and by striking "nonstateaided" and inserting in lieu thereof "nonstate aided" in paragraph (3) of subsection (c) of Code Section 36-41-5, relating to powers of urban residential finance authorities for large municipalities.

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- (4) By striking "paragraph (2) of subsection (a)" and inserting in lieu thereof "paragraph (2) of subsection (b)" in subsection (b) of Code Section 36-82-104, relating to action on a breached bond of a public contractor.

Section 37. Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended as follows:

(1) By inserting "expiration of the" before "five-day" in the last sentence of subsection (a) of Code Section 37-7-91, relating to discharge of persons meeting outpatient care criteria.

Section 38. Reserved.

Section 39. Reserved.

Section 40. Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended as follows:

- (1) By striking "reissue" and inserting in lieu thereof "issue" both times it appears in the undesignated paragraph following subsection (b) of Code Section 40-2-64, relating to special license plates for members of active reserve components of the United States.
- (2) By striking "reissue" and inserting in lieu thereof "issue" both times it appears in subsection (b) of Code Section 40-2-65, relating to special license plates for members of Georgia National Guard.
- (3) By striking "or pleads" and inserting in lieu thereof "or pleaded" in subparagraphs (e)(1)(A) and (B) and by inserting "and" at the end of subparagraph (e)(1)(D) of Code Section 40-5-58, relating to habitual violators.
- (4) By inserting a comma after the word "department" the first time that word appears in the second sentence of subsection (e) of Code Section 40-5-63, relating to conditions for the return of a license after suspension.
- (5) By designating the two paragraphs of Code Section 40-5-66, relating to appeals from decisions of the Department of Public Safety, as subsections (a) and (b).

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- (6) By inserting a comma following the word "department" the first time that word appears in the second sentence of subsection (e) of Code Section 40-5-70, relating to conditions for reinstatement of a driver's license.
- (7) By inserting the word "and" following the semicolon at the end of paragraph (1) of Code Section 40-6-42, relating to overtaking and passing.
- (8) By adding "or" at the end of paragraph (1) of subsection (a) of Code Section 40-6-160,

relating to speed limits.

- (9) By adding "or" at the end of subparagraph (a)(2)(F) of Code Section 40-6-203, relating to stopping, standing, or parking a vehicle.
- (10) By inserting a comma after the word "probation" in subparagraph (c)(1)(A), (B), and (C) of Code Section 40-6-270, relating to the duty of a driver to stop at or return to the scene of an accident.
- (11) By striking "said person being charged" and inserting in lieu thereof "said person's being charged" in subsection (d) of Code Section 40-6-376, relating to prosecution for a serious traffic offense.
- (12) By adding the word "or" at the end of paragraph (2) of subsection (h) of Code Section 40-6-391, relating to driving under the influence.
- (13) By adding the word "and" after the semicolon at the end of paragraph (1) of Code Section 40-8-31, relating to the use of multiple beam lighting equipment.
- (14) By designating the two paragraphs of Code Section 40-8-154, relating to responsible agencies and commissions under the "Georgia Motor Vehicle Emissions Inspection and Maintenance Act," as subsections (a) and (b).
- (15) By striking "a certificate of the cancellation" and inserting in lieu thereof "a certificate of cancellation" in subsection (e) of Code Section 40-9-38, relating to surety bonds under the "Motor Vehicle Safety Responsibility Act."

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- (16) By designating the two paragraphs of subsection (b) of Code Section 40-9-103, relating to cooperation by an insured with insurer in actions under insurance policy, as paragraphs (1) and (2), respectively.
- (17) By inserting "requested" after "return receipt" in subsection (e) of Code Section 40-13-32, relating to restrictions on a court's ability to modify traffic law sentences or judgments.

Section 41. Title 41 of the Official Code of Georgia Annotated, relating to nuisances, is amended as follows:

- (1) By striking the comma following the word "habitation" and inserting in lieu thereof the

word "or" in paragraph (2) of Code Section 41-2-8, relating to definitions for use in Code Sections 41-2-7 through 41-2-17.

- (2) By striking the comma following the word "habitation" and inserting in lieu thereof the word "or" in the first sentence of subsection (b) and by adding a period immediately following the word "unlawful" in paragraph (4) of subsection (b) of Code Section 41-2-9, relating to county or municipal ordinances relating to unfit buildings or structures.
- (3) By striking the commas following "citizen" and "residence" in subsection (b) of Code Section 41-2-12, relating to service of complaints or orders upon parties in interest and owners of unfit buildings or structures.
- (4) By striking "hereunder" and inserting in lieu thereof "under this chapter" in Code Section 41-2-15, relating to authority to use revenues, grants, and donations to repair, close, or demolish unfit buildings or structures.

Section 42. Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended as follows:

- (1) By adding a comma between the word "including" and the word "but" in Code Section 42-2-13, relating to grants to municipal corporations and counties for local jails and correctional institutions.

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- (2) By striking the comma between the word "hospital" and the word "clinics" and inserting in lieu thereof the word "and" in subsection (a) of Code Section 42-5-58, relating to the prohibition against corporal punishment.
- (3) By striking "slungshot" and inserting in lieu thereof "slingshot" in subsection (a) of Code Section 42-5-63, relating to unauthorized possession of weapon by inmate.
- (4) By striking "postsentence" and inserting in lieu thereof "post-sentence" in subsection (a) of Code Section 42-8-29.1, relating to disposition of probation supervisor's documents upon committing of convicted person to institution.
- (5) By striking "one" and inserting in lieu thereof "an attorney" in Code Section 42-8-81, relating to release of person charged to pretrial release and diversion program.
- (6) By striking "salary, travel expense, and cost" and inserting in lieu thereof "salaries, travel

expenses, and costs" in Code Section 42-9-5, relating to compensation of members of the State Board of Pardons and Paroles.

- (7) By striking "an employee" and inserting in lieu thereof "employee" in subsection (f) of Code Section 42-9-12, relating to appointment of replacement for incapacitated member of the State Board of Pardons and Paroles.

Section 43. Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended as follows:

(1) By striking "licensing" and inserting in lieu thereof "leasing" in subsection (b) of Code Section 43-47-7, relating to certain registration and license requirements.

Section 44. Title 44 of the Official Code of Georgia Annotated, relating to property, is amended as follows:

- (1) By striking "the merits of such land or has recommended or given approval to such land or transaction" and inserting in lieu thereof ", upon the merits of such land, or has recommended or given approval to such land or transaction" in subsection (b) of Code

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Section 44-3-8, relating to violations of the "Georgia Land Sales Act of 1982."

- (2) By striking "in a book kept for the purpose of" and inserting in lieu thereof ", in a book kept for the purpose," in subsection (d) of Code Section 44-5-143.1, relating to anatomical gifts by minor decedents.
- (3) By inserting "and" after the semicolon at the end of subparagraph (a)(2)(D), by striking "; or" and inserting a semicolon in its place at the end of subparagraph (a)(2.1)(A), and by striking the comma and inserting in lieu thereof "; or" at the end of subparagraph (a)(2.1)(B) of Code Section 44-13-100, relating to exemptions for bankruptcy purpose.
- (4) By deleting the comma at the end of paragraph (3) of Code Section 44-12-198, relating to own property held by fiduciaries is presumed to be abandoned.

Section 45. Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees, is amended as follows:

(1) By striking "subsection (b) of Code Section 45-16-8" and inserting in its place "Code Section 45-16-6" in subsection (a) of Code Section 45-16-66, relating to annual training requirements for certified

coroners.

Section 46. Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public transportation, is amended as follows:

- (1) By adding "of this Code section" immediately preceding the period at the end of subsection (c) of Code Section 46-2-26.3, relating to recovery of costs of conversion from oil-burning to coalburning generating facility.
- (2) By striking "(including attorneys' fees)" and inserting in lieu thereof ", including attorney's fees" in subsection (b) and by striking "attorneys' fees" and inserting in lieu thereof "attorney's fees" in subsection (d) of Code Section 46-3-306, relating to indemnification of officers, directors, employees, and agents of electric membership corporations.

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- (3) By adding "of" between the words "permit" and "authority" in paragraph (1) of subsection (a) of Code Section 46-7-16, relating to requirements as to registration permits for motor common carriers.
- (4) By adding "of" between the words "permit" and "authority" in paragraph (1) of subsection (a) of Code Section 46-7-61, relating to requirements as to registration permits for motor contract carriers.

Section 47. Reserved.

Section 48. Reserved.

Section 49. Reserved.

Section 50. Reserved.

Section 51. Reserved.

Section 52. Reserved.

Section 53. Title 53 of the Official Code of Georgia Annotated, relating to wills, trusts, and administration of estates, is amended as follows:

- (1) By striking subsections (f), (g), and (h) of Code Section 53-12-3, relating to trustee powers which render a trust executory and termination of irrevocable executory trusts, and inserting in their places new subsections (f), (g), and (h) to read as follows:
 - "(f) Subsections (d) and (e) of this Code section shall apply to:
 - (1) All trusts whenever or wherever created or administered;
 - (2) Any inter vivos or testamentary trust; or
 - (3) Any trust created by the same or different instruments or by the same or different persons.

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- (g) Subsections (d) and (e) of this Code section shall not limit the right of the trustee acting in accordance with the applicable provisions of the governing instrument to divide or consolidate trusts.
- (h)
 - (1) Subsections (a) and (c) of this Code section shall apply to all executory trusts, whether in existence on April 17, 1973, or created thereafter.
 - (2) Subsection (b) of this Code section shall apply to executory trusts created after April 17, 1973.
 - (3) Subsections (d) through (g) of this Code section shall apply to all testamentary or inter vivos trusts, whether in existence on July 1, 1988, or created thereafter."

Section 54. Except for Title 47, the text of Code sections and title, chapter, article, part, subpart, Code section, subsection, paragraph, subparagraph, division, and subdivision numbers and designations as contained in the Official Code of Georgia Annotated published under authority of the state by the Michie Company in 1982 and contained in Volumes 3 through 40 of such publication, as amended by the text and numbering of Code sections as contained in the 1988 supplement to the Official Code of Georgia Annotated published under authority of the state in 1988 by the Michie Company, is reenacted and shall have the effect of statutes enacted by the General Assembly of Georgia. Annotations; editorial notes; Code Revision Commission notes; research references; notes on law review articles;

opinions of the Attorney General of Georgia; indexes; analyses; title, chapter, article, part, and subpart captions or headings, except as otherwise provided in the Code; catchlines of Code sections or portions thereof, except as otherwise provided in the Code; and rules and regulations of state agencies, departments, boards, commissions, or other entities which are contained in the Official Code of Georgia Annotated are not enacted as statutes by the provisions of this Act. Material which has been added in brackets or parentheses and editorial, delayed effective date, effect of amendment, or other similar notes within the text of a Code section by the editorial staff of the publisher in order to explain or to prevent a misapprehension concerning the contents of the Code section and which is explained in an editorial note is not enacted by the provisions of this section and shall not be considered a part of the Official Code of Georgia Annotated. The reenactment of the statutory portion of the Official

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Code of Georgia Annotated by this Act shall not affect, supersede, or repeal any Act of the General Assembly, or portion thereof, which is not contained in the Official Code of Georgia Annotated and which was not repealed by Code Section 1-1-10, specifically including those Acts which have not yet been included in the text of the Official Code of Georgia Annotated because of effective dates which extend beyond the effective date of the Code or the publication date of the Code or its supplements. The provisions contained in other sections of this Act and in the other Acts enacted at the 1989 regular session of the General Assembly of Georgia shall supersede the provisions of the Official Code of Georgia Annotated reenacted by this section.

Section 55. This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

Section 56. All laws and parts of laws in conflict with this Act are repealed.

Approval Date: Approved February 7, 1989.