



Georgia Association of REALTORS®
Friday, April 1, 2011 (really, no fooling!)
[through Day 37 of the Georgia General Assembly]

LEGISLATIVE BULLETIN

Every effort has been made to be accurate and complete in our descriptions of the contents of each act, but we caution you to rely only on the acts themselves and not solely on the summaries in this or any report. Seek appropriate counsel when needed.

NOTE: This is the first year of a two-year legislative session, requiring all legislation be newly introduced. State budget writers face a \$1.2 billion to \$2 billion budget shortfall for the upcoming fiscal year. Balancing the budget will be a top priority for the legislature this session. To address our current shortfall, the legislature will also consider the recommendations from Governor Perdue's Special Council on Tax Reform and Fairness in Georgia. To learn more about the Council's final recommendations, please visit the following website:
<http://fiscalresearch.gsu.edu/taxcouncil/index.htm>

HB 2 Georgia Right to Grow Act (by Rep. Bobby Franklin of Marietta) This bill seeks to preempt certain local ordinances relating to production of agricultural or farm products and to protect the right to grow food crops and raise small animals on private property so long as such crops and animals are used for human consumption by the occupants, gardeners, or raisers and not for commercial purposes. This bill shall not prohibit or impair a local government from abating a public nuisance or the enforcement of any private covenant or other private agreement restricting the use of private property. *(House Judiciary Committee)*

HB 9 Prohibition of Forced Entry in Execution of Search Warrant (by Rep. Bobby Franklin of Marietta) This bill seeks to prohibit the use of forced entry in the execution of a search warrant. It states that under no circumstances shall forced entry into any building or property be used in the execution of a search warrant. Any violation of the provisions of the Code section shall be a felony. *(House Judiciary Non-Civil Committee)*

HB 10 Child Protection Act (by Rep. Bobby Franklin of Marietta) This bill states that no local governing authority shall prohibit the construction of a fence between properties of a sufficient height to prevent a person at the highest point of observation in one residence to observe activity within an adjacent residential property. *(House Judiciary Committee)*

HB 27 Georgia Administrative Procedure Act (by Rep. Mary Margaret Oliver of Decatur) This bill seeks to clarify that a party under the 'Georgia Administrative Procedure Act' may act *pro se* or be represented by a designee under certain circumstances. This bill states that an individual may act *pro se* and all parties who are a partnership, corporation, association, governmental subdivision, public or private organization of any character, trust, or firm may be represented by an officer, director, or employee of such entity. *Pro se* refers to a party that does not retain an attorney and chooses to represent themselves in a court of law. *(House Judiciary Committee)*

HB 29 Tax Amnesty Program Act (by Rep. Keith Heard of Athens) This bill creates a tax amnesty program in addition to the program that expired Dec. 31, 1992. Upon voluntary remission of outstanding tax liabilities, the Commissioner shall waive all penalties and interest for outstanding liabilities for taxable periods commencing on or after Jan. 1, 1994, and on or before Dec. 31, 2009. An additional Property Tax Amnesty Program will also be developed. Each local governing body can pass an ordinance to allow for a property tax amnesty program. If adopted, the local governing authority shall be authorized to waive all penalties or interest in respect to outstanding ad valorem tax liabilities for tax years commencing on or after Jan. 1, 1994, and on or before Dec. 31, 2009. *(House Ways & Means Committee)*

HB 30 Enforcement of Restrictive Covenants in Contracts (by Rep. Wendell Willard of Sandy Springs) This bill seeks to provide for the enforcement of contracts that restrict or prohibit competition in certain commercial agreements. During the 2009 legislative session the General Assembly passed HB 173 which dealt with the issue of restrictive covenants. HB 173 became effective with the passage of HR 178, the Constitutional Amendment that was needed to enact HB 173. The validity of this legislation has been called into question because of the effective date provision of HB 173, so HB 30 seeks to remove any uncertainty by reenacting the substantive provisions of HB 173. The General Assembly finds that reasonable restrictive covenants contained in employment and commercial contracts serve the legitimate purpose of protecting legitimate business interests and creating an environment that is favorable to attracting commercial enterprises to Georgia and keeping existing businesses within the state. *(House – PASSED; Senate Judiciary Committee)*

HB 31 Property Tax Assessment Caps (by Rep. Ed Lindsey of Buckhead) This bill is the enabling legislation for HR 10. This bill says that the rate of increase for the assessed value of real property shall not exceed an aggregate of 9% for each three-year period of successive ownership. Within the three-year period, if one year's increase is less than 3%, the 3% cap for the next year may only be increased by an amount equal to the difference between the actual increase in the preceding year and 3%. Nothing in this bill will prohibit assessed values from decreasing. If real property is sold or transferred or additions or improvements are made, such real property shall be reassessed at fair market value. *(House Ways & Means Committee)*

HB 34 Use of SPLOST Proceeds for Ad Valorem Tax Reduction (by Rep. Ed Setzler of Acworth) This bill is the enabling legislation for HR 12. It would authorize the use of SPLOST proceeds for tax credits and the reduction of ad valorem taxes of qualified homestead property located within the special district in which such tax is levied. If a SPLOST is intended for tax credit purposes, a ballot question would be added to each SPLOST referendum detailing the percentage of the SPLOST proceeds that would be used in the applicable city or county for the purpose of reducing the ad valorem taxes for qualified homestead properties. *(House Ways & Means Committee)*

HB 38 Public Disclosure of Real Estate Purchase Price by Government (by Rep. Bobby Franklin of Marietta) This bill removes an exemption from the law and would require government disclosure of a pending real estate purchase price in a pending acquisition of real property at the time an offer is being made by a state or local agency. *(House State Institutions & Property Committee)*

HB 41 Fees to be Charged by Superior Court Clerks (by Rep. Kip Smith of Columbus) This bill seeks to lower the fees charged by Superior Court clerks for the “preparation of record and transcript to the Supreme Court and Court of Appeals” from \$10.00 to \$1.50 per page. (*House – PASSED; Senate – PASSED; Signed by Governor 3/16/11*)

UPDATED HB 53 Real Estate License Law and Unfair Trade Practices (by Rep. Tim Bearden of Villa Rica) HB 53 is the vehicle to which we are attaching our change to real estate license law. Neither SB 250 nor HB 455 made it out of their respective Rules Committees in time to make the final crossover calendar. Understanding our position, we quickly coordinated with multiple parties to attach the language of HB 455 to HB 53, both of which are located in similar sections of the Georgia code. Current law requires a broker to disclose to all parties in a real estate transaction all expenditures made on behalf of a principal, including expenditures for which the principal is not paying. The new proposed language limits the disclosure obligation only to expenditures to be reimbursed by the broker’s principal. Current law also requires a broker to disclose to all parties in a transaction such items as giving the broker’s own client a gift upon the purchase of a house; the new language proposed would eliminate this requirement. Further, the new bill will require a broker to disclose whether or not he will be receiving a referral fee for the referral of a person to another broker. [The provision that would have eliminated the requirement to disclose the amount of a referral fee was struck from the bill in Senate committee.] (*House – PASSED; favorably reported out of Senate Judiciary Committee, now in Senate Rules Committee*)

HB 67 Hands-Free Communications Devices in Motor Vehicles (by Rep. Rahn Mayo of Decatur) This bill states that only hands-free communications devices shall be used in motor vehicles. The use of a hand-held mobile telephone by any driver while operating a motor vehicle on the highways of this state shall be a violation of the Code section. (*House Public Safety & Homeland Security Committee*)

HB 75 Sale of Distilled Spirits by a Private Club (by Rep. Rusty Kidd of Milledgeville) This bill would authorize the sale of alcoholic beverages by nonprofit organizations during a single function without a license. ‘Nonprofit organization’ means any nonprofit association and includes any member, employee, volunteer, or other person working on behalf of such nonprofit organization. A nonprofit organization is authorized to sell alcohol by the drink at a single function without having to obtain a license or permit from any governmental agency. (*House Regulated Industries Committee*)

HB 76 Georgia Certified Retirement Community Program (by Rep. Rusty Kidd of Milledgeville) This bill would authorize the Department of Economic Development to create the Georgia Certified Retirement Community Program. The purpose of the program will be to encourage retirees and those planning to retire to make their homes in Georgia. It will work to promote the state as a retirement destination, assist Georgia communities in their efforts to market themselves as a retirement location, and assist in the development of retirement communities and continuing care retirement communities. The department will develop a scoring system to determine whether an applicant will qualify as a Georgia certified retirement community; the criteria may include state and local tax structures, housing opportunities and cost, employment opportunities, and transportation. (*Favorably reported out of House Economic Development & Tourism Committee; now in House Rules Committee*)

HB 80 Annexation of Unincorporated Islands (by Rep. Mark Hamilton of Cumming) Current law states that creation of an unincorporated island shall be prohibited. This bill changes the definition of ‘unincorporated island’ to be an unincorporated area in existence prior to January 1, 1991, with its aggregate external boundaries abutting the annexing municipality or any combination of abutting municipalities, or any unincorporated area that the county has reasonable means of physical access for the provision of services otherwise provided by the county governing authority solely to the unincorporated area of the county. *(House – PASSED; Senate Rules Committee)*

HB 87 Illegal Immigration Reform and Enforcement Act of 2011 (by Rep. Matt Ramsey of Peachtree City) This bill mandates that all employers in Georgia must utilize the employment eligibility verification system to ensure they are not hiring illegal aliens. [The impact on the real estate industry should be negligible. We had some concerns about the definition of the term ‘harboring’ contained in the original bill. We spoke with the author and the language has been changed to our satisfaction. Harboring has been defined as “willingly and knowingly harboring illegal aliens.” Also, the person harboring must be in violation of another criminal offense.] *(House – PASSED; Senate Judiciary Committee)*

UPDATED HB 90 Heritage Trust Program (by Rep. Tim Bearden of Villa Rica) This bill states that the State of Georgia may transfer its interests in a heritage preserve to a county or local government as long as the property is maintained in accordance with the primary purpose of the heritage preserve. The county or local government shall adhere to the conditions and uses set out by the Governor in the Executive Order designating the property as a heritage preserve. *(House – PASSED; favorably reported out of Senate State Institutions & Property Committee, now in Senate Rules Committee)*

UPDATED HB 93 Relating to Local Government Code Enforcement Boards (by Rep. Tom Taylor of Dunwoody) This bill will change terminology from “code inspectors” to “code enforcement officers”. Code enforcement officer means any person employed by a county or municipality who has enforcement authority for health, safety, or welfare requirements. [In the original bill, Section 7 provided that a code enforcement officer had the power to repair, close, or demolish unfit buildings or structures and the determination of a code inspector would be considered prima facie evidence in a court of law. After discussion with committee members, Section 7 was struck by the committee in its entirety.] *(House – PASSED; favorably reported out of Senate State & Local Government Committee, now in Senate Rules Committee)*

HB 95 Ad Valorem Taxation of Property (by Rep. Jay Roberts of Ocilla) This bill revises certain provisions regarding ad valorem taxation of forest land conservation use property. ‘Forest land conservation use property’ means forest land which consists of more than 200 acres and has as its primary use the good faith subsistence or commercial production of trees, timber, or other wood products from the land. HB 95 adds language to the Georgia Forest Land Protection Act of 2008 to define ‘contiguous.’ Contiguous means land within a county that has the same undivided common ownership. If the land is divided by a county boundary, public roadway, public easement, public right of way, natural boundary, land lot line, or railroad track then the land owner can, at the time of the initial applications, declare the land contiguous irrespective of the afore mentioned dividers. *(House – PASSED; Senate Finance Committee)*

HB 110 Vacant Properties Registration (by Rep. Mike Jacobs of Atlanta) A substitute version of this bill will function as a statewide framework for registries of vacant properties. The definition of ‘vacant properties’ has been narrowed in the substitute to be a) any property intended for human habitation that has not been lawfully inhabited for at least 60 days with no evidence of utility usage and is not being actively marketed for sale, lease, or rent (with prominent signage posted on property with name and valid phone number of owner or licensed real estate agent); b) is partially constructed or incomplete, without a valid building permit, or; c) has been foreclosed upon. The bill would allow local governments to use any or all of the three parts of the definition (a, b, or c) as the qualifier for registration in their local ordinance. New to the bill is a provision that sets forth additional contact information to be added to the deed of power on sale of foreclosure. If this deed is filed within 60 days then the property owner will be exempt from any vacant property registry list. The substitute contains preemption language that includes vacant real property registration. The fees and penalties remain at a maximum of \$100.00 per registration and the maximum penalty for noncompliance may not exceed \$500.00 per month. [We are concerned with a provision of the bill that will allow the Department of Community Affairs to add requirements to the property registration form beyond what is set forth in the bill. We are continuing to address our concerns with the language and intent of the bill.]

UPDATED A provision has been added to HB 110 that would allow local governments to create a separate property registry for properties that have repeat uncorrected code violations within a 60-day period. An amendment was not allowed that would have placed a legal obligation on the licensed real estate agent to provide the property owner’s information to local governments. (*House – PASSED; favorably reported out of Senate Banking & Financial Institutions Committee, now in Senate Rules Committee*)

HB 111 Interbasin Transfer of Water (by Rep. Debbie Buckner of Junction City) This bill seeks to create a policy for comprehensive state-wide water management planning. It will take water from a river ‘donor basin’ and transfer that water to another river basin in an ‘interbasin transfer’ where it will end up in a ‘receiving basin’. Donor basin considerations include the quantity of the proposed withdrawal, stream flow, and foreseeable future water needs for the donor basin. (*House Natural Resources & the Environment Committee*)

HB 117 Tax Information on the Sale of Property (by Rep. Rick Crawford of Cedartown) This bill seeks to make sure that the person listed as the seller on the closing statement is treated as the seller and will be responsible for executing and delivering to the buyer all forms or other documents that are appropriate for determining the amount of tax to be withheld. (*House – PASSED; Senate Finance Committee*)

HB 118 Property Tax, Current Use Value (by Rep. David Knight of Griffin) This bill seeks to establish the valuation of conservation land for ad valorem taxation of property. “Current use value” is defined as the amount a knowledgeable buyer would pay for the property with the intention of continuing the property in its existing use. (*House Ways & Means Committee*)

UPDATED

HB 129 Prohibition of Fee for Future Conveyances (by Rep. Doug McKillip of Athens) This bill is related to mortgages, conveyances to secure debt, and liens. Developers have a tool to generate revenue in a down economy by creating a 1% conveyance fee for every transaction regarding real property for a time period of 99 years; this fee acts as a funding mechanism for developers by providing immediate access to capital. This bill would prohibit the fee that developers might charge on subsequent transactions of real property. *(House – PASSED; favorably reported out of Senate Judiciary Committee, now in Senate Rules Committee)*

HB 134 Interbasin Water Transfer (by Rep. Alan Powell of Hartwell) This bill is very similar to HB 111 in that it seeks to establish the policy whereby interbasin water transfers can occur. It provides the same definitions of ‘donor basin’, ‘interbasin transfer’, and ‘receiving basin’ as in HB 111. This bill provides an apparatus for the regulation of interbasin transfers of water by establishing provisions relating to permits for withdrawal of water. *(House Natural Resources & the Environment Committee)*

HB 135 Unauthorized Cutting of Timber (by Rep. Ellis Black of Valdosta) This bill seeks to address the process of retribution for a land owner who has had unauthorized cutting and carrying away of timber from his property. The bill states that it is the responsibility of the land owner to clearly and accurately mark the boundary lines of the property in which trees are to be harvested when hiring an agent or contractor to perform timber harvesting activities. An owner of land shall not be liable to neighboring landowners if this is done. All actions for trespass or damage to property involving the unauthorized cutting and carrying away of timber shall be brought within six (6) years after the removal of trees. *(Favorably reported out of House Judiciary Committee; now in House Rules Committee)*

UPDATED

HB 167 Association Group Insurance (by Rep. Steve Davis of McDonough) This bill will allow insurance policies to be issued for associations insuring at least 10 members, employees, or employees of members of the association for the benefit of persons other than the association or its officers or trustees. It adds “individuals whose compensation is reported on federal Internal Revenue Service Form 1099 and their spouses or dependents.” The bill also includes a prompt pay provision which states that an insurer shall have a timeframe of 15 working days for electronic claims and 30 calendar days for paper claims within which to process claims. *(House – PASSED; favorably reported out of Senate Judiciary Committee, now in Senate Rules Committee)*

HB 174 Reasonableness of Water and Sewer Fee (by Rep. James Mills of Gainesville) This bill seeks to make equal the price of water from counties and cities. It establishes a way for a governing authority to dispute unreasonable charges from another governing authority before filing a formal suit. *(House Governmental Affairs Committee)*

HB 198 Sunset Dates for Real Estate Filing Fees (by Rep. Tom Rice of Norcross) This bill would extend the sunset dates for real estate or personal property filings with the Clerks of Superior Court. Section 1 of the bill extends the sunset date from July 1, 2014, until July 1, 2016. Section 2 repeals the sunset provision for the electronic filing fee for real estate paid to the Clerks of Superior Court. Section 3 states, “This Code section shall be repealed in its entirety on July 1, 2016.” *(House – PASSED; Senate Judiciary Committee)*

HB 222 Income Tax Credit for Donation of Property for Conservation Purposes (by Rep. Jay Roberts of Ocilla) Any tax credit claimed, but not used, by a taxpayer may be transferred or sold in whole or in part to another Georgia taxpayer if it meets certain conditions. The transferor shall submit to the department a written notification of any transfer or sale of tax credits within 30 days after the transfer or sale of such tax credits. In no event shall the amount of the tax credit claimed and allowed for a taxable year exceed the transferee's income tax liability. *(House Ways & Means Committee)*

UPDATED **HB 223 Building Codes Exemption for Farm Properties** (by Rep. Rick Jasperse of Jasper) This bill adds language to existing code by providing an exemption from the minimum standard building codes for farm and agricultural property. A farm building is defined as 'a building or structure that is located on a farm and designed) by the USDA Natural Resources Conservation Service (NRCS), not used for residential purposes...and used primarily for agricultural operations'. *(House – PASSED; Senate – PASSED)*

HB 232 Lobbying Registration Requirements (by Rep. Ed Lindsey of Atlanta) A substitute bill has been proposed that will clarify the requirements for people to register as lobbyists. The first change ensures that a person is considered to be a lobbyist only if he or she is "compensated specifically" for undertaking to influence the passage of legislation. The new language also adds that a person does not have to register as a lobbyist unless more than 10 percent of the time he or she spends working for an employer or for a particular client or clients in a given calendar month is spent engaging in lobbying activities. It also will allow the Commission to waive or suspend late fees or penalties for non-filing of disclosure reports in circumstances where the filer had nothing to report. *(House – PASSED; Senate – PASSED; Signed by Governor 3/15/11)*

HB 237 Mortgage Fraud and Mortgage Lending Process (by Rep. Rich Golick of Smyrna) 'Mortgage lending process' is defined as the process through which a person seeks or obtains a residential mortgage loan including solicitation, application, or origination, negotiation of terms, third-party provider services, underwriting, signing and closing, and funding of the loan. This bill adds to the mortgage process list the 'execution of deeds under power of sale and the execution of assignments that are required to be recorded'. *(House – PASSED; Senate Judiciary Committee)*

HB 245 Contract of Suretyship (by Rep. Rusty Kidd of Milledgeville) This bill amends the existing code by adding the language "Any surety or cosigner on a loan obligation shall be notified at the same time that the principal is notified that he or she is in default on the loan." *(House Judiciary Committee)*

UPDATED **HB 266 Constables and Carrying Weapons Under Certain Circumstances** (by Rep. John Yates of Griffin) This bill adds constables to the list of persons that can carry weapons when authorized by federal or state law. The list includes peace officers, wardens, military servicemen, district attorneys, chief probation officers, etc. [This bill does not explicitly affect property rights, but we are monitoring it because it could become a potential vehicle for anti-property rights language as it moves through the process.] *(House – PASSED; Senate – PASSED)*

HB 268 Notice of Rezoning Hearings (by Rep. Ann Purcell of Rincon) This bill states that the notice of a rezoning hearing shall be published within a local newspaper and that the notice shall state the location of property under consideration with its current and proposed zoning. A sign must be conspicuously posted on the affected property not later than 15 days prior to the date of the hearing, and the sign must identify the current and proposed zoning, the date and location of the hearing, and the name of the person or entity seeking zoning change. *(House Judiciary Committee)*

HB 286 License to Carry a Pistol or Revolver (by Rep. Pedro Marin of Duluth) This bill lays out additional requirements for obtaining a license to carry a pistol or revolver. [This bill does not explicitly affect property rights, but we are monitoring it because it could become a potential vehicle for anti-property rights language as it moves through the process.] *(House Public Safety & Homeland Security Committee)*

HB 291 Property Tax Bills (by Rep. Brett Harrell of Snellville) This bill provides that property tax bills shall not include any non-tax related fees or assessments. This includes, but is not limited to, stormwater service fees or solid waste service fees. Any collections and payment of such non-tax related fees and assessments shall be addressed in billings separate from property tax bills. *(Favorably reported out of House Ways & Means Committee; now in House Rules Committee)*

HB 338 Protection of Mortgagor during Foreclosure Proceedings (by Rep. Bob Bryant of Garden City) This bill states that a) all transfers of deeds to secure debt shall be in writing and witnessed as required for deeds; b) no later than 30 days after the date on which a deed to secure debt or mortgage loan is sold to a third party, the creditor that is the new owner of the debt shall notify the mortgagor in writing of such transfer; c) a grantor shall be entitled to receive without charge a payoff balance from the holder of a deed to secure debt on real property by requesting in writing said balance; and d) a mortgage grantee shall not proceed with any sale of the property unless all assignments of the mortgage have been duly recorded with the land records in the Superior Court and the entity who asserts that they are the holder of the deed with the right to enforce the obligation secured by the deed or mortgage can directly trace their interest through the duly recorded assignments to the original grantee or mortgagee. Failure to comply with these provisions is a defense to any foreclosure. Any creditor who fails to comply with these requirements is liable in an amount equal to the sum of any actual damage sustained as a result of the failure, twice the amount of any finance charge in connection with the transaction, and reasonable attorneys' fees as determined by the court. The bill goes on to state that prior to foreclosure proceedings any mortgagor shall have a 45-day right-to-cure period. *(House Banks & Banking Committee)*

HB 368 Interbasin Transfers of Water (by Rep. Tom McCall of Elberton) The purpose of this bill is to protect supplies of water for agricultural and other uses through regulation of withdrawals, diversions, and reductions of water flows. The bill will take water from a river 'donor basin' and transfer that water to another river basin in an 'interbasin transfer' where it will end up in a 'receiving basin'. Donor basin considerations include the quantity of the proposed withdrawal, stream flow, and foreseeable future water needs for the donor basin. *(House Natural Resources & the Environment Committee)*

HB 381 Moratorium on All Increases of Assessed Value of Property (by Rep. Ed Lindsey of Atlanta) The General Assembly finds that the citizens and property owners of this state are continuing to experience a crisis in the reduction of value of tangible property and it is in the best interest of Georgia that action be taken to secure the economic stability of the state. This bill states that for taxable years beginning on or after January 1, 2011, and continuing only until December 31, 2012, a moratorium is declared on all increases in the assessed value of all classes of property which are subject to ad valorem taxation. *(Favorably reported out of House Ways & Means Committee; now in House Rules Committee)*

HB 385 Special Council on Tax Reform and Fairness (by Rep. Mickey Channell of Greensboro) This bill is based on the recommendations of the Special Council for Tax Reform and Fairness in Georgia. [We are closely monitoring the progress of this bill to ensure that a sales tax on services for real estate transactions is not included. In the bill's current form, additional taxes for services directly tied to the real estate transaction are not included.] *(House Special Joint Committee on Georgia Revenue Structure)*



HB 387 Special Council on Tax Reform and Fairness (by Rep. Mickey Channell of Greensboro) This bill is based on the recommendations of the Special Council for Tax Reform and Fairness. The council recommended the Legislature cut Georgia's income tax rate and rely more on consumer taxes. This bill seeks to lower the state personal income tax rate from 6% to 4.5%. Apart from lowering the income tax rate, the plan would give tax breaks to industry and agriculture, charge the state sales tax on automotive services, charge a 7% tax on satellite television and Internet phone service, and tax the private sales of cars, among other provisions. [It has been explained that there will be a cap on itemized deductions on state returns tied to income levels. We have been told this provision will not impact the deduction of mortgage interest for those who do not itemize their deductions. However, there is a potential impact on mortgage interest deduction on state returns if itemized deductions reach the maximum cap.] *(Favorably reported out of House Special Joint Committee on Georgia Revenue Structure)*

HB 394 Annexation and Deannexation of Property (by Rep. Mark Hamilton of Cumming) This bill state that a municipality shall prepare a plan for the extension of services or improvements to the area proposed to be annexed. It also says that if, after annexation has been in effect for at least 2 years, 100% of the property owners who submitted an application for annexation assert that the annexing municipality failed to properly implement services or improvements as presented in the plan for services, such property owners may apply to the municipality for deannexation. *(House Governmental Affairs Committee)*

HB 400 Water Withdrawals from Tennessee River Basin (by Rep. Jay Neal of LaFayette) The bill applies to the withdrawal of surface water from portions of the Tennessee River Basin lying in the Chickamauga Valley and Lookout Mountain districts and followed by the use or return of some or all of that water to a different river basin in this state. Water taken from these districts will be exempt from any restriction on interbasin transfers of water. *(House Natural Resources & the Environment Committee)*

HB 419 Time for the Delivery of a Notice of the Initiation of Foreclosure (by Rep. Billy Mitchell of Stone Mountain) This bill extends from 30 to 90 days the time period for delivery of notice of the initiation of proceedings to exercise a power of sale in a mortgage, security deed, or other lien contract by the secured creditor. During the 90-day notice period, the debtor shall have a right to cure the foreclosure by paying the creditor the full amount of past due payments along with any late fees and charges so as to bring the debt current. *(House Judiciary Committee)*

UPDATED **HB 423 Prohibit Unfair Trade Practices Between Residential Contractors and Property Owners Relating to Insurance Claims** (by Rep. Howard Maxwell of Dallas) This bill seeks to address unfair trade practices by residential contractors as they relate to insurance claims by property owners. ‘Residential contractor’ means a person offering to contract with a property owner of residential real estate to repair or replace roof systems or perform any other exterior repair, replacement, construction, or reconstruction. A residential contractor shall not advertise or promise to pay or rebate all or any portion of any insurance deductible as an inducement for the sale of goods or services. A person who has entered into a written contract with a residential contractor for goods or services to be paid from the proceeds of a property and casualty insurance policy may cancel the contract prior to midnight on the fifth (5th) business day after the insured has received written notice from the insurer that all or any part of the claim is not a covered loss. *(House – PASSED; favorably reported out of Senate Insurance & Labor Committee, now in Senate Rules Committee)*

HB 428 Extend Corporate Limits of Municipalities During Annexation (by Rep. Mike Jacobs of Atlanta) This bill states that the governing authority of any municipality first incorporated on or after December 1, 2008, is authorized to pursue extension of the corporate limits of the municipality to include any unincorporated contiguous areas within four (4) miles of the corporate limits. *(Favorably reported out of House Governmental Affairs Committee; now in House Rules Committee)*

HB 445 Rights and Remedies of Tenants in Foreclosures (by Rep. Andy Welch of McDonough) This bill relates to the rights of a renter when the rental property has been foreclosed upon. If a tenant has paid a security deposit and the rental unit is foreclosed upon, the holder of the landlord’s interest in the dwelling unit at the time of the termination of tenancy shall return the security deposit to the tenant. The bill adds that foreclosure alone is not grounds for eviction of a tenant. A tenant is protected for at least 90 days even without a lease; with a lease, the tenant may be entitled to remain in the rental unit until the end of the lease term. *(House Judiciary Committee)*

HB 455 Real Estate License Law and Unfair Trade Practices (by Rep. Alan Powell of Hartwell) This bill amends a section of real estate license law which addresses unfair trade practices. Current law requires a broker to disclose to all parties in a real estate transaction all expenditures made on behalf of a principal including expenditures for which the principal is not paying. The new proposed language limits the disclosure obligation only to expenditures to be reimbursed by the broker’s principal. Current law also requires a broker to disclose to all parties in a transaction such items as giving the broker’s own client a gift upon the purchase of a house; the new language proposed would eliminate this requirement. Further, the new bill will require a broker to disclose whether or not he will be receiving a referral fee for the referral of a person to another broker, but not the amount of the referral fee. *(Favorably reported out of House Judiciary Committee; now in House Rules Committee)*

HB 465 Execution of Instruments by Corporations Conveying Interest in Real Property (by Rep. Tom Weldon of Ringgold) This bill states that instruments executed by a corporation conveying an interest in real property, when signed by the president or vice-president and countersigned by the secretary or an assistant secretary of the corporation, shall be conclusive evidence that the president or vice-president of the corporation executing the document does in fact occupy the official position indicated and that the execution of the document on behalf of the corporation has been duly authorized despite the lack of a corporate seal. *(House Rules Committee)*

HB 499 Agricultural Water Conservation Incentive Program (by Rep. Jay Roberts of Ocilla) The program's purpose is to provide incentives to agricultural producers to foster water conservation and enhance water quality, and to evaluate the effectiveness of such incentives by examining available scientific data, including but not limited to farm use data collected by the State Soil and Water Conservations Commission. *(House Agriculture and Consumer Affairs Committee)*

HB 502 Lead-Based Paint Regulation (by Rep. Lynn Smith of Newnan) This bill was brought forth by the Department of Natural Resources over its concern that legislation passed in 2010 eliminated the Department's ability to charge fees and issue corrective orders for non-compliance with lead-based paint activities. The code section being referenced was not directly removed legislatively; it appears that the section was removed by Legislative Counsel during the annual review of all statutes. Current law authorizes the DNR Board to assess fees in regards to lead-based paint training and licensure; this bill will provide those powers to the Department and allow the Department to charge fees and issue corrective orders. In addition, the bill will reinstate into law that any violation of this chapter shall be a misdemeanor. *(House Rules Committee)*

HB 527 Penalties for Foreclosures in Violation of Federal Servicemembers Civil Relief Act (by Rep. Terry Johnson of Marietta) This bill states that any lender which forecloses on residential real property and is in violation of the Servicemembers Civil Relief Act shall be subject to returning the property to the service member, paying all damages directly related to foreclosure, and paying the service member's reasonable attorney's fees. *(House Judiciary Committee)*

HR 1 Abolishment of Property Taxes (by Rep. Bobby Franklin of Marietta) This resolution proposes an amendment to the State Constitution so as to abolish and prohibit all state, county, consolidated government, municipal, school district, special district, or any other governmental entity from imposing taxes, fees, and liens on property. This resolution would provide for local option sales and use tax or a flat rate household tax. *(House Ways & Means Committee)*

HR 2 Abolishment of Eminent Domain (by Rep. Bobby Franklin of Marietta) This resolution proposes an amendment to the State Constitution so as to prohibit the taking of private property through eminent domain. *(House Judiciary Committee)*

HR 3 Abolishment of Zoning Laws (by Rep. Bobby Franklin of Marietta) This resolution proposes an amendment to the State Constitution so as to provide that no restrictions shall be placed by any government or governmental entity on the use of property within this state. This resolution provides that land use and zoning laws, ordinances, and resolutions shall be prohibited in Georgia. *(House Judiciary Committee)*

HR 10 The Ad Valorem and Tax Assessment Amendment (by Rep. Ed Lindsey of Buckhead) This resolution proposes an amendment to the State Constitution so as to provide for a local referendum in each county on the question of limiting increases in the value of property. If approved by a majority of Georgia voters, local jurisdictions would be required to place a question on this issue on the November 2014 General Election ballot. If approved by a majority of voters in the county, the rate of increase for the assessed value of real property shall not exceed an aggregate of 9% for each three-year period of successive ownership for properties within that county. Within the three-year period, if one year's increase is less than 3%, the 3% cap for the next year may only be increased by an amount equal to the difference between the actual increase in the preceding year and 3%. Nothing will prohibit assessed values from decreasing. If real property is sold or transferred or additions or improvements are made, such real property shall be reassessed at fair market value. (*House Ways & Means Committee*)

HR 12 Use of SPLOST Proceeds for Ad Valorem Tax Reduction (by Rep. Ed Setzler of Acworth) This resolution proposes an amendment to the State Constitution so as to provide that the sales and use tax for educational purposes may include a tax credit reduction of the ad valorem tax liability for educational purposes of qualified homestead property or other ad valorem tax liability of qualified homestead property. (*House Ways & Means Committee*)

SB 1 Public Hearings on Increase of Millage Rate on Same Day (by Sen. Robert Brown of Macon) This bill prohibits local governments from conducting public hearings regarding the increase of millage rates in excess of the roll-back rate on the same day as other local governments are conducting public hearings which affect all or a portion of the same properties subject to such increase in millage rates. (*Favorably reported out of Senate Finance Committee*)

SB 9 Georgia Energy Freedom Act of 2011 (by Sen. Mitch Seabaugh of Sharpsburg) This bill seeks to preempt the requirements of any federal program to implement a cap and trade system or any other program to address greenhouse gas emissions or motor vehicle fuel economy until a comprehensive assessment of such program can be made and the Governor finds that the implementation will benefit the citizens of Georgia. (*Senate – PASSED; House Natural Resources & the Environment Committee*)

UPDATED SB 26 Carrying Firearms During a State of Emergency (by Sen. David Shafer of Duluth) This bill prohibits any additional limitations on carrying firearms during a state of emergency. It reads that, “no officer of the state, member of the National Guard, or any person acting pursuant under color of state law shall temporarily or permanently seize any firearm other than as evidence in a criminal investigation.” It lists other situations where carry rights are preserved. [This bill could become a vehicle for anti-property rights language and we will continue to monitor its progress.] (*Senate – PASSED; House Judiciary Committee*)

UPDATED SB 37 State Properties Code (by Sen. Buddy Carter of Pooler) This bill gives the State Properties Commission the authority to enter into multiyear lease agreements for administrative space. The State Properties Code is amended by adding that the commission will contract a licensed real estate broker chosen based on a competitive selection process to perform transaction management services on behalf of the State Properties Commission. The commission may charge and retain a negotiated fee from the broker for the purpose of financing the operations of the commission. (*Senate – PASSED; favorably reported out of House State Institutions & Property Committee, now in House Rules Committee*)

UPDATED

SB 86 Repealing Mandatory Land Use Planning (by Sen. Frank Ginn of Danielsville)

This bill says a county or municipality is authorized, but not required, to prepare a comprehensive land use plan. Current law states that in order to be considered a ‘qualified local government’, land use planning is mandatory. This bill repeals the definition of ‘qualified local government’ and provides a greater amount of flexibility for local governments in terms of land use planning. (*Senate – PASSED; House – PASSED*)

SB 98 Carrying and Possession of Firearms (by Sen. Barry Loudermilk of Cassville) A substitute to this bill has been introduced which contains our original property rights language that says, “Nothing in this code section shall restrict the rights of private property owners or persons in legal control of property though a lease, a rental agreement or a contract. When a private property owner is also an employer, his or her rights as a private property owner or person in legal control of property shall govern.” [We are continuing our research to understand the motivation and intent of this bill.] (*Senate – PASSED; House Public Safety & Homeland Security Committee*)

SB 99 Owner’s Right to Install Solar Collector Panels (by Sen. Curt Thompson of Norcross) This bill seeks to prohibit covenants for a planned subdivision and property owners’ association which infringe upon a lot owner’s right to install solar collector panels, photovoltaic arrays, solar lights, and skylights. (*Senate Judiciary Committee*)

UPDATED

SB 102 Carrying and Possession of Firearms (by Sen. Jeff Mullis of Chickamauga)

This is an NRA bill that amends current carry and possession law. After several subcommittee meetings, our original compromise language on property rights was restored to the bill. Along with our original language, additional pro-property rights language is inserted later in the bill. The bill changes the term ‘long gun’ to ‘rifle or shotgun’ and expands the definition. It also eliminates places of worship from the carry and possession exemption list, allowing licensed carry permit holders to carry in a place of worship. [We are currently working with the sponsor and members of the General Assembly to ensure that private property rights are not endangered by this bill.] (*Senate – PASSED; House Judiciary Non-Civil Committee*)

SB 106 Contractor Licensing (by Sen. William Ligon of Brunswick) This bill seeks to amend the current code by eliminating the requirement that a property owner wait two years between each instance where the property owner acts as a personal contractor. There would now be no limit to the amount of time required to pass between each instance of acting as a contractor. Additionally, this bill changes the dollar amount of compensation for work required to be done by a residential contractor from \$2,500.00 to \$1 million dollars. (*Senate Government Oversight Committee*)

SB 117 Exemptions from Levy or Sale of Property (by Sen. Jesse Stone of Waynesboro) This bill raises the exemption rate for levy and sale of any real or personal property of a debtor. It strikes the amount of \$5,000 and inserts “\$25,000 or \$50,000 for real or personal property that is the debtor’s primary residence.” (*Senate Judiciary Committee*)

SB 122 Public/Private Partnership for Construction of Water Reservoirs (by Sen. Ross Tolleson of Perry) This bill relates to local governments and their partnership with private persons, firms, associations, or corporations in an effort to plan, finance, construct, acquire, operate, and maintain water reservoirs. [Our concerns with this bill relate to a potential threat to eminent domain by way of the public/private partnership into which local governments enter. The sponsor of the bill, who also is Chairman of the Natural Resources and the Environment Committee, has assured us that eminent domain law does not change. No private entity can use the power of eminent domain; all power rests with the local governments.] (*Senate – PASSED; House Governmental Affairs Committee*)

SB 128 Interbasin Transfer of Water (by Sen. George Hooks of Americus) This bill seeks to establish the policy whereby interbasin water transfers can occur. It provides definitions of ‘donor basin’, ‘interbasin transfer’, and ‘receiving basin’. This bill provides an apparatus for the regulation of interbasin transfers of water by establishing provisions relating to permits for withdrawal of water. (*Senate Natural Resources & the Environment Committee*)

SB 132 Exempt Water Withdrawals from Certain Portion of Tennessee River Basin (by Sen. Jeff Mullis of Chickamauga) This bill exempts from restriction the withdrawal of surface water from any point within that portion of the Tennessee River basin lying in the Chickamauga Valley and Lookout Mountain districts in this state followed by use or return of some or all of that water to a different river basin in this state. (*Favorably reported out of Senate Natural Resources & the Environment Committee; now in Senate Rules Committee*)

SB 136 Transfer of Control of a Condominium Association (by Sen. Bill Hamrick of Carrollton) This bill says that if a declarant fails to comply with their duties then any owner may send written notice of failure to comply to the declarant and provide a 30-day opportunity to cure a failure. If declarant fails to cure deficiencies within 30 days, they may file a petition in Superior Court to grant control of the association to the owners. The bill also says that a lien for unpaid condominium association fees assessed for the 12 months immediately preceding the date of foreclosure will be primary to liens for ad valorem taxes and any mortgage. Under this bill, the lender will be held accountable for association fees for one year if the condominium is foreclosed upon. (*Favorably reported out of Senate Judiciary Committee; now in Senate Rules Committee*)

UPDATED SB 186 Consolidation of Fire Safety Services Act (by Sen. Jeff Mullis of Chickamauga) This bill modifies the powers and duties of the state fire marshal and establishes the position of Fire Safety Commissioner. This bill attempts to consolidate primary state fire protection and safety services within a single agency and transfers certain functions from the Commissioner of Insurance to the Fire Safety Commissioner. A compromise has been reached that would allow the Insurance Commissioner’s office to review fire safety plans for structures under construction. We would still have the right to appeal to the Insurance Commissioner’s office to resolve disputes arising from code violations. (*Senate – PASSED; favorably reported out of House Public Safety & Homeland Security Committee, now in House Rules Committee*)

SB 211 Lead-Based Paint Regulation (by Sen. Ross Tolleson of Perry) This bill was brought forth by the Department of Natural Resources over its concern that legislation passed in 2010 eliminated the Department's ability to charge fees and issue corrective orders for non-compliance with lead-based paint activities. The code section being referenced was not directly removed legislatively; it appears that the section was removed by Legislative Counsel during the annual review of all statutes. Current law authorizes the DNR Board to assess fees in regards to lead-based paint training and licensure; this bill will provide those powers to the Department and allow the Department to charge fees and issue corrective orders. In addition, the bill will reinstate into law that any violation of this chapter shall be a misdemeanor. (*Senate – PASSED; House Health & Human Services Committee*)

UPDATED

SB 234 Property Tax Assessment (by Sen. Chip Rogers of Woodstock) This bill provides additional protections to property owners in ad valorem tax disputes. It says that property owners may send written notice of factual errors by the tax assessor or tax commissioner and, if deemed correct, those errors will be corrected within 30 days of receipt of notice. This bill also says that if a property's ad valorem tax liability is increased by more than 10% in a single year and the increase is due to inflationary growth only then the words 'SUBSTANTIAL NOTICE' must be included in bold at the top of each qualifying notice. Additionally, this bill says that if a property owner's independent appraisal is rejected by the board of assessors, the property owner will be sent notice of a meeting time and place to decide on an arbitrator within 60 days. If this deadline is not met, the property owner's independent appraisal shall be the final determination of value. (*Senate – PASSED; House Judiciary Committee*)

SB 250 Real Estate License Law and Unfair Trade Practices (by Sen. David Shafer of Duluth) This bill amends a section of real estate license law which addresses unfair trade practices. Current law requires a broker to disclose to all parties in a real estate transaction all expenditures made on behalf of a principal including expenditures for which the principal is not paying. The new proposed language limits the disclosure obligation only to expenditures to be reimbursed by the broker's principal. Current law also requires a broker to disclose to all parties in a transaction such items as giving the broker's own client a gift upon the purchase of a house; the new language proposed would eliminate this requirement. Further, the new bill will require a broker to disclose whether or not he will be receiving a referral fee for the referral of a person to another broker, but not the amount of the referral fee. (*Senate Rules Committee*)

SB 262 Establishment of a Post-Foreclosure Registry (by Sen. Ronald Ramsey of Decatur) This bill says that any owner of real property against which a notice of code violation has been sent who fails to correct such violation within 48 days shall be subject to a fine of \$100.00 for every day thereafter during which such violation remains uncorrected. These fines shall constitute a lien against the property and will enable the property to be foreclosed upon in the same manner as a tax lien. Additionally, this bill will enable local counties and municipalities to set up a registry for post-foreclosure properties. The clerk of each Superior Court shall establish and maintain a post-foreclosure registry for the purpose of maintaining information relating to purchasers of real property at foreclosure sales. Within ten (10) business days after the date of a purchase of real property at a foreclosure sale, the purchaser at foreclosure, or his or her agent, shall file with the clerk of the Superior Court of the county in which the real estate is located the mailing address and contact telephone number of the new owner or his or her agent. This information will be deemed to be the correct address for service of code enforcement violations. (*Senate Judiciary Committee*)

SR 15 Creating a Joint Committee on Water Supply (by Sen. Ross Tolleson of Perry) The committee shall undertake a study of the state's current reservoir system and shall conduct a comprehensive analysis of the state's strategic needs for additional water supply, including – without limitation – the identification of creative financing options for water reservoirs and other opportunities for water supply enhancement. (*Senate – PASSED; House – PASSED*)

For more in-depth coverage on major issues please refer to GAR's grassroots report, [The Legislative Link](#).

Copies of Legislation are easily accessed via the Internet; go to <http://www.legis.state.ga.us/> to view the status of any of the legislation outlined in this bulletin. Because the legislative process is constantly in motion, members of the GAR State and Local Government Affairs Committee should address questions regarding GAR's position. Please contact the GAR Governmental Affairs Department at (770) 451-1831 for the phone number of the member nearest you.