

House Bill 575 (AS PASSED HOUSE AND SENATE)

By: Representatives McCollum of the 30<sup>th</sup>, Jasperse of the 11<sup>th</sup>, Powell of the 33<sup>rd</sup>, McDonald III of the 26<sup>th</sup>, and Hagan of the 156<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges,  
2 and ferries, so as to authorize notice of certain public hearings by the Department of  
3 Transportation by electronic publication; to authorize such department to negotiate the  
4 acquisition of common property of a condominium association or property owners'  
5 association with the designated board for either such association; to provide standards for  
6 bringing an action to acquire such common property; to provide for the disbursement of  
7 consideration received from such department for common property; to authorize the  
8 establishment and administration of a program by such department for the clearing of rights  
9 of way and the removal of wrecked or abandoned heavy duty vehicles from the rights of way  
10 of interstate highways and limited access highways; to provide for payment of costs relating  
11 to removal or relocation of public utilities through agreement between the department and  
12 utility provider; to provide for related matters; to repeal conflicting laws; and for other  
13 purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

## SECTION 1.

Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries, is amended in Code Section 32-2-3, relating to development of transportation plans, public hearings, approval of plans by board, and promulgation of rules and regulations, by revising paragraphs (3) through (5) of subsection (f) as follows:

"(3) ~~These~~ The public hearings required by this subsection shall be conducted so as to provide an opportunity for effective participation by interested persons in transportation policy decisions; the process of transportation planning, modal selections, and site and route selection; and the specific location and design of major transportation facilities. ~~The~~ At such hearings the various factors involved in the decision or decisions and any alternative proposals shall be clearly presented so that the persons ~~attending the hearing~~ in attendance may present ~~their~~ views relating to the decision or decisions which will be made. The hearing required by this subsection for a facility, site, or project corridor ~~hearing~~ and the ~~design~~ hearing for the design of a proposed facility or facilities may be held simultaneously to satisfy the requirements of this subsection.

(4)(A) The department may satisfy the requirements of this subsection for a public hearing by holding a public hearing or by ~~publishing two notices of opportunity for providing the opportunity to request a public hearing. Such opportunity to request a public hearing shall be satisfied upon the publication of notice once a week for two weeks~~ in a newspaper having general circulation in the vicinity of the proposed undertaking and holding a public hearing if any written requests for such a hearing are received. The procedure for requesting a public hearing shall be explained in the notice. The deadline for submission of such a request may not be less than 21 days after the publication of the first notice of opportunity for public hearing and no less than 14 days after the date of publication of the second notice of opportunity for public hearing.

(B) A copy of the notice of opportunity for public hearing required by subparagraph (A) of this paragraph shall be furnished at the time of publication to the United States Department of Transportation, the appropriate departments of state government, and affected local governments and planning agencies. If no requests for a public hearing are received in response to a notice published pursuant to subparagraph (A) of this paragraph within the time specified for the submission of requests in the published notice, the department shall be deemed to have met the hearing requirements of this subsection.

~~(C) The opportunity for another public hearing shall be afforded in any case when~~  
When the proposed locations or designs of an undertaking are changed from those presented in the notices ~~specified in~~ published pursuant to subparagraph (B) of this paragraph or at a public hearing so as to have a substantially different transportation service; or different social, economic, or environmental effect, a new public hearing shall be required. Such public hearing shall be held in accordance with the requirements of this subsection.

~~(D) The opportunity for a public hearing shall be afforded in each case in which the department is in doubt~~ department shall hold a public hearing for an undertaking in any instance in which federal or state law is unclear as to whether a public hearing is required.

(5)(A) When a public hearing is to be held pursuant to this subsection, two notices of such hearing shall be published in print or electronically in a newspaper having general circulation in the vicinity of the proposed undertaking. The first notice shall be published no less than 30 days prior to the date of the hearing and the second notice shall be published no less than five days prior or in the last publication date available prior to the date of the hearing. The department shall publish a copy of such hearing notice on its public website no less than 30 days prior to the date of the hearing.

(B) Copies of the notice for public hearing published pursuant to this paragraph shall be mailed to the United States Department of Transportation, appropriate departments of state government, and affected local governments and planning agencies."

## SECTION 2.

Said title is further amended by adding a new Code section to read as follows:

"32-3-2.1.

(a) As used in this Code section, the term:

(1) 'Authorized board' means the executive and administrative body designated in a condominium instrument or property owners' association instrument as the governing body of common property as set forth in Article 3 or Article 6 of Chapter 3 of Title 44.

(2) 'Common property' shall include common elements, as such term is defined in Code Section 44-3-71 and common areas, as such term is defined in Code Section 44-3-221.

(3) 'Declaration' shall have the same meaning as set forth in Code Section 44-3-71.

(4) 'Instrument' shall have the same meaning as set forth in Code Section 44-3-221.

(5) 'Owner' means any person having interest in property under a declaration or instrument.

(b) Notwithstanding any provision of Chapter 3 of Title 44 to the contrary, when the department seeks to acquire any common property, the department shall be authorized to conduct all phases of such pre-acquisition and acquisition with officers of the authorized board. Unless specified to the contrary in any recorded instrument or declaration, an authorized board shall be authorized to convey common property to the department on behalf of all owners. If, during the pre-acquisition or acquisition phase of common property authorized by this Code section, the department and authorized board fail to agree upon the terms of acquisition, the department shall be authorized to bring the authorized association as a party in any action in lieu of each owner; provided, however, that when an owner is directly impacted by a proposed acquisition in relation to other owners, such

owner shall be individually named in the action. An owner shall be bound by the judgment in any action brought by the department against an authorized association pursuant to this Code section.

(c) Any consideration received by an authorized board in exchange for common property pursuant to this Code section shall be allocated to each owner pursuant to any ownership interest set forth in a declaration or instrument."

### SECTION 3.

Said title is further amended in Code Section 32-6-2, relating to authority of department, counties, and municipalities to regulate parking and parking vehicles or leaving vehicles unattended on right of way of public road on state highway system, by adding a new paragraph to read as follows:

"(5) Notwithstanding any provision of Chapter 11 of Title 40 or Code Section 44-1-13 to the contrary, the department shall be authorized to establish and administer a towing and recovery program for the restoration of the right of way and the removal from the right of ways of interstate highways and limited access highways vehicles exceeding 16,000 pounds that have been disabled, damaged, abandoned, or wrecked or are otherwise inoperable and which impede the flow of traffic as determined and requested by the department, the Department of Public Safety, local law enforcement, or designated fire department personnel. The authority of the department relating to such towing and recovery program shall include all powers necessary to create and administer such a program, including, but not limited to, the power to adopt all policies, procedures, qualifications, standards, and specifications for towing operators and to establish incentives for towing operators to carry out and effectuate the purposes of this Code section. The removal of any vehicle pursuant to the program authorized by this Code section shall include removal or cleanup of any affected cargo transported or spilled by

118 any vehicle exceeding 16,000 pounds but not any passenger vehicles or personal property  
119 thereof."

120 **SECTION 4.**

121 Said title is further amended in Code Section 32-6-170, relating to payment by department  
122 of costs of removal, relocation, and adjustment of utility facilities necessitated by  
123 construction of public roads, by revising subsection (b) as follows:

124 "(b) The department is authorized to pay or participate in the payment of the costs of  
125 removing, relocating, or making necessary adjustments to any of the following facilities  
126 or any component part thereof if they are owned by a public utility that is publicly,  
127 privately, or cooperatively owned, without regard to whether such facilities were originally  
128 installed upon rights of way of the state highway system, a county road system, or a  
129 municipal street system, where the department has made the determination that (i) such  
130 payments are in the best interest of the public and necessary in order to expedite the staging  
131 of the project; and (ii) the costs of the removal, relocation, or adjustment of such facilities  
132 are included as part of the contract between the department and the department's roadway  
133 contractor for the project or in a written agreement between the utility and the department,  
134 provided that such removal, relocation, or adjustment is made necessary by the  
135 construction or maintenance of a public road by the department: water distribution and  
136 sanitary sewer facilities and systems for producing, transmitting, or distributing  
137 communications, power, electricity, light, heat, gas, steam, waste, and storm water not  
138 connected with highway drainage, including fire and police signals, traffic-control devices,  
139 and street lighting systems."

140 **SECTION 5.**

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