



Judicial Council of Georgia

Administrative Office of the Courts

Chief Justice Harold D. Melton
Chair

Cynthia H. Clanton
Director

Memorandum

TO: Members of the bench, bar, and public

FROM: Chief Judge Christopher J. McFadden, Chair
Certiorari Review Subcommittee
Judicial Council/Standing Committee on Legislation

RE: Draft Superior and State Court Appellate Practice Act

DATE: June 9, 2020

This memorandum provides a summary of the attached draft Superior and State Court Appellate Practice Act, which is proposed by the Certiorari Review Subcommittee of the Judicial Council/Standing Committee on Legislation (Subcommittee). The attached draft is a project of the Subcommittee and is pending the approval of the Judicial Council/Standing Committee on Legislation. The Subcommittee's proposal has not yet been endorsed by the Judicial Council. The Subcommittee was appointed on July 21, 2016, for the purpose of reviewing the current certiorari review procedure set forth in OCGA §§ 5-4-1 et seq. The goal of the Subcommittee is to simplify, improve, and modernize the municipal, magistrate, and non-Article 6 probate court appellate process.

Background

The members of the Certiorari Review Subcommittee have noted widespread confusion and frustration across the State regarding how to litigate a writ of certiorari in superior or state court. The Subcommittee has also observed that a number of litigants statewide are having writs of certiorari dismissed on procedural grounds. Procedural dismissals deny parties a decision on the merits and deprive lower judiciaries of meaningful instruction.

The draft Superior and State Court Appellate Practice Act would remove archaic procedural barriers that exist under the current appellate process. The proposed legislation would create a single, clear, logical, and modern procedure that replaces complex statutes and two parallel processes on the subject (i.e., a writ of certiorari or notice of appeal). Moreover, the proposed statutes would create an easier to navigate process that promotes access to justice, particularly for self-represented litigants, by increasing the prevalence of appeals to superior and state court that are decided on the merits instead of complex and antiquated procedural grounds.

Summary of Draft Superior and State Court Appellate Practice Act

The proposed Superior and State Court Appellate Practice Act would replace Georgia’s certiorari review and notice of appeal statutes with a single “petition for review” procedure for appealing a case from a lower judicatory to superior court or state court. More specifically, the proposed legislation would repeal and replace both the current notice of appeal and certiorari review statutes in OCGA Chapters 3 and 4 of Title 5 with a modern, logical, and relatively simplified process for superior or state court review of decisions from municipal courts, non-Article 6 probate courts, magistrate courts, and other lower judicatories. For purposes of the proposed legislation, a “lower judicatory” would be broadly defined to include government officials and bodies that render both judicial and quasi-judicial decisions. The provisions of the proposed Act are summarized below.

Part I (Sections 1-1 and 1-2)

Section 1-1

Section 1-1 would repeal Chapter 3 of Title 5 of the OCGA, which currently governs appeals to superior court or state court, and replace it with the provisions of the proposed Act. Lines 60-62. The repeal of Chapter 4 of Title 5, which currently provides for certiorari review, is addressed in Part II (Section 2-1) of the Act, as described below. See lines 668-669.

Section 1-2

Section 1-2 includes the primary substantive provisions of the proposed Act in the form of entirely new Code Sections 5-3-1 through 5-3-21, as follows (Lines 66-665):

5-3-1. Short title

Proposed Code Section 5-3-1 would rename OCGA Chapter 3 of Title 5 the “Superior and State Court Appellate Practice Act.” Lines 66-70.

5-3-2. Intent; construction

Subsection (a) of proposed Code Section 5-3-2 would state the general intent of new Chapter 3 of Title 5, which is to establish a single procedure called a “petition for review” to replace the two previous methods of appealing a decision rendered by a lower judicatory to a superior or state court. Lines 71-74. Courts would be required to liberally construe Chapter 3 to make a decision on the merits whenever possible instead of dismissing an appeal on procedural grounds. Lines 74-77. Subsection (b) would similarly require courts to “construe any petition for review . . . according to its substance, merit, and function; and not merely its style, form, or title” to facilitate a decision on the merits. Lines 78-80. Subsection (b) would work in concert with proposed Code Section 5-3-3 (9) to do so. See lines 124-128.

Subsection (c) would apply only to cases subject to de novo proceedings in the reviewing superior or state court, and articulate the public policy concerns of the dissent in *Long v. Greenwood Homes, Inc.*, 285 Ga. 560, 563 (679 SE2d 712, 715) (2009), particularly that under

the majority's interpretation of current law, a "party who wished to avoid an adverse ruling of the magistrate court could simply appeal that ruling, dismiss the appeal, and effectively vacate the magistrate's decision." Lines 81-85. Subsection (c) works in concert with proposed Code Section 5-3-19 and Section 5-1 of the Act to address this problem. See lines 627-638; 1422-1425.

5-3-3. Definitions

Proposed Code Section 5-3-3 would define the terms used in the Act. Lines 86-140. The terms "lower judicatory" and "decision" would be broadly defined to reflect that reviewing superior and state courts have appellate jurisdiction over the "judicial" and "quasi-judicial" decisions of a wide variety of State and local government officials. See lines 93-94; 101-108; 111-114. Code Section 5-3-3 would also clearly define "opposing party," which would replace the problematic existing terms "opposite party" and "respondent." Lines 129-132. Identifying the "opposite party" and "respondent" when petitioning for a writ of certiorari is a source of confusion under current law. See, e.g., OCGA §§ 5-4-6; 5-4-7; 5-4-9; 5-4-18. See also *City of Sandy Springs Bd. of Appeals v. Traton Homes, LLC*, 341 Ga. App. 551, 557 (801 SE2d 599, 605) (2017).

5-3-4. Superior and state court appellate jurisdiction; exceptions; preemption

Subsection (a) would establish the appellate jurisdiction of superior and state courts over a "final judgment" of a "lower judicatory," as defined in paragraphs (6) and (7) of proposed Code Section 5-3-3. Lines 141-144; see lines 111-121. Subsections (b) and (c) would provide for exceptions to superior and state court appellate jurisdiction which are identical to those under current law. Lines 145-164. Subsection (d) would provide that the provisions of the Act would "preempt all local laws and locally enacted laws, ordinances, regulations, rules or procedures." Lines 165-168.

5-3-5. Standard of review; appeal to jury

Proposed Code Section 5-3-5 would establish two different standards of review of a petition for review. Lines 169-184. Subsection (a) would provide that the default standard of review is a limited review analogous to a review in a writ of certiorari procedure. Lines 170-182. When conducting a limited review, the reviewing superior or state court would "sit as a court of review" as specified in paragraphs (1)-(5) of subsection (a). Lines 174-182. Subsection (b) would provide for a de novo standard of review only if "a de novo proceeding is specified by law." Lines 183-184. Subsections (c) and (d) would address jury trials in the context of a de novo proceeding. Lines 185-189. Subsection (d) would require a demand for a jury trial in a de novo proceeding to be "filed in the reviewing superior or state court within 30 days after the filing of a petition for review." Lines 188-189.

5-3-6. Invoking superior or state court appellate jurisdiction; practices and procedures not prescribed

Subsection (a) would establish the filing of a petition for review with the clerk of a reviewing superior or state court as the procedural mechanism for invoking the appellate jurisdiction of a superior or state court. Lines 190-194. Subsection (b) would clarify that a “petitioner may file a petition for review without the approval of the lower judiciary.” Lines 195-196. Subsection (c) would permit the superior or state court appellate practices not covered in the Act to “be governed by superior or state court rule or order.” Lines 197-199.

5-3-7. General procedures

Proposed Code Section 5-3-7 would establish general procedures for a petition for review, including that a petitioner must file a petition for review within 30 days after the date of the final judgment appealed, as specified. Lines 200-207. Subsection (c) of this proposed Code section would also prohibit a petitioner from naming the official who made the decision under review as a party to the case underlying the appeal simply because he or she made the decision in the lower judiciary. Lines 211-218. Instead, subsection (b) would specify that the parties in the petition for review are the same as the parties to the proceedings in the lower judiciary. Lines 208-210.

Subsection (d) would provide petitioners a suggested format for a petition for review. Lines 219-240. Subsections (e) and (f) would require a petition for review to be served on all parties and the clerk of the lower judiciary within five days of filing the petition for review in the reviewing superior or state court. Lines 241-247.

5-3-8. Responses; replies; amendments

Subsection (a) of proposed Code Section 5-3-8 would require an opposing party to file his or her response within 30 days after being served with a petition for review. Lines 248-251. Subsection (a) would also require an opposing party to include counterclaims, cross-appeals, defenses, or third-party claims in a response in a de novo proceeding. Lines 251-253. Subsection (c) would require a petitioner to file his or her reply to the opposing party’s response within 30 days after being served with the response, which must likewise include counterclaims, etc., if the review is a de novo proceeding. Lines 256-260. Subsection (d) would specify when and under what conditions a petition for review, response, or reply may be amended. Lines 261-266. Finally, subsections (e) and (f) would respectively require an opposing party to serve a copy of his or her response on the petitioner and the petitioner to serve a copy of his or her reply on the opposing party. Lines 267-268.

5-3-9. Management of proceedings; refusal to appeal; monetary limitations not applicable

Proposed Code Section 5-3-9 would provide reviewing superior and state courts tools to manage proceedings in a petition for review, including the authority to issue “such orders and writs as may be necessary to aid in its jurisdiction and manage court proceedings.” Lines 269-272. The first sentence of subsection (d) of this proposed Code section is a near verbatim

restatement of existing OCGA § 5-3-4 and would clarify what will happen if one party wants to appeal and another party on the same side of the case refuses to appeal. Lines 280-283. The second sentence of subsection (d) would preserve existing OCGA § 5-3-5 almost verbatim and clarify how damages are to be awarded if a party refuses or fails to appeal. Lines 283-287. Subsection (e) would preserve existing OCGA § 5-3-40 (b), which specifies that the monetary limitations in paragraph (5) of OCGA § 15-10-2 are not applicable in a petition for review. Lines 288-290.

5-3-10. Service of process

Proposed Code Section 5-3-10 would establish the procedures and requirements for service of process in a petition for review. Lines 291-347. Subsections (b)-(f) of this Code section are adapted from subsection (f) of existing OCGA § 9-11-5 and would permit and encourage electronic service of process. Lines 323-347.

5-3-11. Deadline extensions

Subsection (a) of proposed Code Section 5-3-11 would require a person seeking a deadline extension to do so before the expiration of the filing period currently in effect. Lines 348-351. Subsection (b) would permit only one filing extension for a petition for review but would permit additional deadline extensions for other documents. Lines 352-356. Subsection (c) would require the clerk of the reviewing superior or state court to promptly serve each party and the clerk of the lower judiciary with a copy of any extension granted and the motion requesting such extension. Lines 357-360.

5-3-12. Limited grounds for dismissal

Proposed Code Section 5-3-12 would limit the grounds for which a reviewing superior or state court may dismiss a petition for review to the reasons enumerated in paragraphs (1)-(7) in subsection (a). Lines 361-374. Subsection (b) of this proposed Code section would require a reviewing superior or state court to give a petitioner an opportunity to cure a defect in a petition for review, bond, or affidavit of indigence prior to dismissing the petition for review. Lines 375-380. Similarly, a reviewing superior court would be required to permit a lower judiciary to address its failure to transmit any document needed to conduct its review. Line 377. Subsection (c) would give a party an opportunity to address his or her failure to perfect service on another party prior to a reviewing superior or state court dismissing the appeal for failure to perfect service (note the use of the word “immediately”). Lines 381-382.

5-3-13. Venue; jurisdiction; transfers

Subsection (a) of proposed Code Section 5-3-13 would require a petitioner to file a petition for review in a superior or state court with proper venue and jurisdiction. Lines 383-386. Subsections (b)-(e) would facilitate a transfer of a petition for review filed in the wrong court to the correct superior or state court. Lines 387-401.

5-3-14. Record on appeal

Proposed Code Section 5-3-14 is modeled after existing OCGA § 5-6-41 (which governs the creation of a transcript of evidence and proceedings for use by the appellate courts) and would similarly provide for the creation of a record in the lower judiciary for use by the reviewing superior or state court in a petition for review. Lines 402-486.

5-3-15. Transmission of the record; notice of petitioner confined to jail; remand

Subsection (a) of proposed Code Section 5-3-15 would require the clerk of the lower judiciary to transmit a copy of the record in the lower judiciary to the reviewing superior or state court within 30 days after being served with a petition for review, as required in subsection (f) of proposed Code Section 5-3-7. Lines 487-492. Subsection (d) would hold the clerk in the lower judiciary accountable for transmitting the record to the reviewing superior or state court in the time required. Lines 500-504. Subsection (b) would require the clerk of the lower judiciary to include a notification with the record transmitted to the reviewing superior or state court if the petitioner is currently confined to jail or otherwise incarcerated. Lines 493-496.

Under subsection (c) of proposed Code Section 5-3-15, the clerk would be required to notify the judge or member of the lower judiciary if no record is currently available for review so that appropriate action may be taken. Lines 497-499. If the reviewing superior or state court is unable to review a petition for review based on the record transmitted from the lower judiciary, the reviewing superior or state court would be required to vacate the lower judiciary's decision and remand the case back to the lower judiciary for additional proceedings. Subsection (e); lines 505-509.

5-3-16. Payment of costs; exceptions

Subsection (a) of proposed Code Section 5-3-16 would not require all costs in the lower judiciary to be paid to *file* a petition for review in superior or state court. Lines 510-512. However, subsection (b), which would apply only to civil cases, would require such costs to be paid within 30 days of being notified of such costs or the filing of an affidavit of indigence before a petition for review may be *heard* in superior or state court. Lines 513-519. Subsection (c) would reinforce that paying costs or filing an affidavit of indigence would only be a prerequisite in civil cases, stating that the "payment of costs accrued in the lower judiciary shall not be required in a criminal case as a condition precedent to hearing a petition for review under this chapter." Lines 520-523. Under subsection (d), a reviewing superior or state court would be permitted to dismiss a petition for review for failure to pay the costs in the lower judiciary only if the petitioner has been directed to do so and fails to comply. Lines 524-528.

Subsection (e) of proposed Code Section 5-3-16 would exempt an executor, administrator of an estate, or other trustee from the payment of costs requirement in subsection (b), as is the case under existing OCGA § 5-3-24. Lines 529-536. An executor, administrator of an estate, or other trustee would be likewise exempt from "the giving of a bond and security under [proposed] Code Section 5-3-17," as specified in subsection (e). Lines 530-536; see proposed

Code Section 5-3-17 (c), lines 554-557. In cases where a petitioner does not file an affidavit of indigence, proof of payment of costs would be accomplished by filing a “certificate of payment of costs from the lower judiciary,” as specified in subsection (f). Lines 537-547.

5-3-17. Bond and security

Subsection (a) of proposed Code Section 5-3-17 was adapted from existing OCGA § 5-3-22 (b), would generally preserve existing OCGA § 5-4-19, and would provide that the filing of a petition for review “shall act as supersedeas” and “suspend but not vacate a final judgment of a lower judiciary.” Lines 548-551. Subsection (b) would not require a supersedeas bond to be given in a petition for review unless required by the reviewing superior or state court under subsection (c). Lines 552-557. Subsection (d) would provide that a supersedeas would cease if “a petitioner fails to give a bond when a bond is required” unless the petitioner files an affidavit of indigence. Lines 558-561.

A supersedeas bond under proposed Code Section 5-3-17 would be limited to “the total amount of damages, fines, fees, penalties, and surcharges imposed by the lower judiciary in the case under review” per subsection (e). Lines 562-564. Subsection (f) would establish general requirements for bonds given in a petition for review. Lines 565-579. Subsections (j)-(n) would preserve various bond provisions under current law, including those in existing OCGA §§ 5-3-6; 5-3-23; 5-3-25; and 5-4-10. Lines 591-608.

5-3-18. Procedures after review

Subsections (a) and (b) of proposed Code Section 5-3-18 would provide instructions regarding what to do after a petition for review has been reviewed by a superior or state court. Lines 609-617. Subsection (c) would require the clerk of the reviewing superior or state court to serve a copy of the reviewing superior or state court’s decision regarding a petition for review on the clerk of the lower judiciary and all parties within five days after the date the decision was rendered. Lines 618-621. Under subsection (d), the clerk of the lower judiciary would then be required to notify the judge or member of the lower judiciary who decided the case below of the reviewing superior or state court’s decision. Lines 622-624. The decision of the reviewing superior or state court would be reviewable by the appropriate appellate court prescribed by law under subsection (e). Lines 625-626.

5-3-19. Effects of dismissal or withdrawal

The first sentence of subsection (a) of proposed Code Section 5-3-19 would restate a portion of existing OCGA § 5-3-7, which provides that if an appeal is dismissed, “the rights of all parties shall be the same as if no appeal had been filed.” Lines 627-629. The second sentence of subsection (a) and paragraphs (1)-(3) would clarify how to the first sentence in subsection (a) is to be applied. Lines 629-636. The effect of subsection (a) would be to overrule the majority opinion in *Long v. Greenwood Homes, Inc.*, 285 Ga. 560 (679 SE2d 712) (2009). This proposed Code section would work in concert with subsection (c) of proposed Code Section 5-3-2 and Section 5-1 of the Act to do so. See lines 81-85; 1422-1425.

5-3-20. Damages for frivolous appeals in civil cases

Subsection (a) of proposed Code Section 5-3-20 would generally provide for damages against the petitioner and the petitioner's security, if any, in cases where the appeal was frivolous and intended only for delay. Lines 639-644. Such damages would be capped at "20 percent of the principal sum that the jury or the reviewing superior or state court finds due." Lines 645-646. Subsection (b) would limit the applicability of proposed Code Section 5-3-20 "only to civil cases where a petition for review results in a judgment for a sum of money." Lines 647-648.

5-3-21. Recovery of costs

Proposed Code Section 5-3-21 would provide the reviewing superior or state court guidance regarding ordering the recovery of costs by the petitioner or the opposing party depending on who prevails in a petition for review. Lines 649-665.

Part II (Section 2-1)

Section 2-1 of the proposed Act would repeal Chapter 4 of Title 5 in its entirety, which currently provides for "Certiorari to Superior [or State] Court." Chapter 4 would be designated "reserved" to maintain the numbering of the subsequent provisions of the OCGA. Lines 668-669.

Part III (Sections 3-1 through 3-41)

Sections 3-1 through 3-41 of the proposed Act would provide for conforming amendments throughout the OCGA. Lines 672-1415. The proposed amendments would generally replace "certiorari" with "petition for review" throughout the OCGA and make other related technical changes to conform current law to the terminology and substantive provisions of the proposed Code sections in Section 1-2 of the Act. Lines 66-665.

Part IV (Section 4-1)

Section 4-1 would provide for an effective date of "the first day of July in the calendar year following the year it is approved by the Governor or becomes law without such approval." Lines 1418-1419.

Part V (Section 5-1)

Section 5-1 would overrule *Long v. Greenwood Homes, Inc.*, 285 Ga. 560 (679 SE2d 712) (2009) and any other decision that is not consistent with the provisions of the proposed Act. Lines 1422-1425. The public policy rationale for this provision is articulated in proposed Code Section 5-3-2 (c). Lines 81-85. Section 5-1 would work in concert with proposed Code Section 5-3-19 to do so, as detailed above. See lines 627-638.

Part VI (Section 6-1)

Section 6-1 would clarify that the proposed Act would “not apply to any appeal pending in a reviewing superior or state court before its effective date.” Lines 1428-1429.

Part VII (Section 7-1)

Section 7-1 would repeal all laws and parts of laws in conflict with the provisions of the proposed Act. Line 1432. This is standard language included in most legislation.

Attached: Draft Superior and State Court Appellate Practice Act

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 5 of the Official Code of Georgia Annotated, relating to
2 appeals to superior or state court, so as to provide for a unified procedure for appealing
3 decisions of a lower judicatory, as defined, to a superior or state court with jurisdiction
4 and proper venue; to provide for a short title; to provide for intent and construction; to
5 provide for the liberal construction of petitions for review; to provide for definitions; to
6 provide for superior and state court appellate jurisdiction and related exceptions; to
7 provide for the preemption of certain laws; to provide for a standard of review and
8 appeals to a jury; to provide for the permissibility of practices and procedures not
9 prescribed; to provide for general procedures; to provide for responses, replies, and
10 amendments thereto; to provide for amendments to a petitions for review; to provide for
11 the management of court proceedings and other related matters; to provide for service of
12 process; to provide for deadline extensions; to provide for limited grounds for dismissal;
13 to provide for transfers when venue or jurisdiction are not proper; to provide for the
14 record on appeal; to provide for transmission of the record; to provide for notice of a
15 petitioner confined to jail; to provide for remand; to provide for the payment of costs and
16 fees and related exceptions; to provide for bonds and related security; to provide for
17 procedures after review; to provide for dismissal or withdrawal and the effects thereof;
18 to provide for damages for frivolous appeals in civil cases; to provide for the recovery of
19 costs; to repeal and reserve Chapter 4 of Title 5 the Official Code of Georgia Annotated,
20 relating to certiorari to superior court; to amend Title 3 of the Official Code of Georgia
21 Annotated, relating to alcoholic beverages, so as to make conforming changes regarding
22 appeals; to amend Title 4 of the Official Code of Georgia Annotated, relating to animals,
23 so as to make conforming changes regarding appeals; to amend Title 10 of the Official
24 Code of Georgia Annotated, relating to commerce and trade, so as to make conforming
25 changes regarding appeals; to amend Title 12 of the Official Code of Georgia Annotated,
26 relating to conservation and natural resources, so as to make conforming changes
27 regarding appeals; to amend Title 15 of the Official Code of Georgia Annotated, relating
28 to courts, so as to make conforming changes regarding appeals; to amend Title 17 of the
29 Official Code of Georgia Annotated, relating to criminal procedure, so as to make
30 conforming changes regarding appeals; to amend Title 22 of the Official Code of Georgia
31 Annotated, relating to eminent domain, so as to make conforming changes regarding
32 appeals; to amend Title 31 of the Official Code of Georgia Annotated, relating to health,
33 so as to make conforming changes regarding appeals; to amend Title 32 of the Official
34 Code of Georgia Annotated, relating to highways, bridges, and ferries, so as to make
35 conforming changes regarding appeals; to amend Title 33 of the Official Code of Georgia
36 Annotated, relating to insurance, so as to make conforming changes regarding appeals;
37 to amend Title 34 of the Official Code of Georgia Annotated, relating to labor and
38 industrial relations, so as to make conforming changes regarding appeals; to amend Title
39 36 of the Official Code of Georgia Annotated, relating to local government, so as to make
40 conforming changes regarding appeals; to amend Title 37 of the Official Code of Georgia
41 Annotated, relating to mental health, so as to make conforming changes regarding
42 appeals; to amend Title 38 of the Official Code of Georgia Annotated, relating to military,
43 emergency management, and veterans affairs, so as to make conforming changes
44 regarding appeals; to amend Title 40 of the Official Code of Georgia Annotated, relating
45 to motor vehicles and traffic, so as to make conforming changes regarding appeals; to
46 amend Title 41 of the Official Code of Georgia Annotated, relating to nuisances, so as to
47 make conforming changes regarding appeals; to amend Title 43 of the Official Code of
48 Georgia Annotated, relating to professions and businesses, so as to make conforming

49 changes regarding appeals; to amend Title 44 of the Official Code of Georgia Annotated,
50 relating to property, so as to make conforming changes regarding appeals; to amend Title
51 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, so as
52 to make conforming changes regarding appeals; to amend Title 48 of the Official Code
53 of Georgia Annotated, relating to revenue and taxation, so as to make conforming
54 changes regarding appeals; to provide for related matters; to overrule certain court
55 decisions; to clarify the application of the Act to pending appeals; to repeal conflicting
56 laws; to provide for an effective date; and for other purposes.

57 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

58 **PART I**
59 **SECTION 1-1**

60 Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is
61 amended by repealing Chapter 3, relating to appeals to superior or state court, in its
62 entirety.

63 **SECTION 1-2**

64 Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is
65 amended by adding a new Chapter 3 to read as follows:

66 “CHAPTER 3. SUPERIOR AND STATE COURT APPELLATE PRACTICE
67 ACT

68 5-3-1. Short title

69 This chapter shall be known and may be cited as the “Superior and State Court
70 Appellate Practice Act.”¹

71 5-3-2. Intent; construction

72 (a) The intent of this chapter is to establish a single procedure called a “petition for
73 review” for appealing a case from a lower judicatory to superior or state court as
74 authorized by the Constitution of this state. To that end, the courts shall liberally
75 construe this chapter to bring about a decision on the merits and avoid dismissal of
76 any case or refusal to consider any points raised therein unless dismissal or refusal
77 is expressly required by statute.

78 (b) The reviewing superior or state court shall construe any petition for review filed
79 under this chapter according to its substance, merit, and function; and not merely its
80 style, form, or title.

81 (c) In cases where a de novo proceeding is required as specified in subsection (b) of
82 Code Section 5-3-5, a court shall not construe this chapter to permit a party who
83 wishes to avoid an adverse decision of a lower judicatory to effectively vacate the
84 decision of such lower judicatory solely by withdrawing or dismissing a petition for
85 review after it has been filed in the reviewing superior or state court.²

86 5-3-3. Definitions

87 As used in this chapter:

88 (1) The term “judicial in nature” means a formal or informal decisional process
89 involving —³

90 (A) ascertaining relevant facts from the evidence presented; and

91 (B) applying preexisting legal standards to such facts; for

92 (C) immediate application to specific circumstances.

93 (2) The term “decision” means any formal or informal⁴ adjudication, decision,
94 determination, judgment, order, ruling, or other act that is judicial in nature.⁵

95 (3) The term “judicial forms of procedure”⁶ generally means that all parties are
96 provided an opportunity to, under formal or informal rules of evidence⁷ —

97 (A) present evidence;

98 (B) comment regarding the evidence presented;

99 (C) present contrary evidence; and

100 (D) examine and cross-examine witnesses, if any.⁸

101 (4) The term “quasi-judicial” means an act with all the following
102 characteristics:⁹

103 (A) All parties are as a matter of right entitled to notice and to a hearing,
104 with the opportunity to present evidence under judicial forms of
105 procedure.¹⁰

106 (B) A decisional process that is judicial in nature.¹¹

107 (C) A decision that is final, binding, and conclusive of the rights of the
108 interested parties.¹²

109 (5) The term “judicatory” means any court, person, board, or tribunal¹³
110 exercising judicial or quasi-judicial powers.

111 (6) The term “lower judicatory” means any judicatory —

112 (A) inferior in authority to the superior or state courts; or

113 (B) subject to the appellate jurisdiction of the superior or state courts as
114 provided by law and the Constitution of this state.¹⁴

115 (7) The term “final judgment” means a lower judicatory has rendered a judicial
116 or quasi-judicial¹⁵ decision on a case that —¹⁶

- 117 (A) is no longer pending in a lower judicatory;
118 (B) has exhausted all appeals or administrative remedies available in a
119 lower judicatory; and
120 (C) has met all conditions precedent to appeal provided by law including,
121 but not limited to, the conditions set forth in Code Section 33-2-26.
122 (8) The term “clerk” means a court clerk or a person who is the functional
123 equivalent of a court clerk if a lower judicatory does not have a court clerk.
124 (9) The term “petition for review” means any request for superior or state court
125 review of a final judgment of a lower judicatory filed by a petitioner including,
126 but not limited to, any request for review titled as follows: petition for review,
127 petition for writ of certiorari, petition for writ of mandamus, petition for writ of
128 prohibition, or notice of appeal.¹⁷
129 (10) The term “opposing party” means a person¹⁸ who is —
130 (A) adverse to the petitioner; and
131 (B) a party to the dispute underlying the judicial or quasi-judicial decision
132 rendered by the lower judicatory.¹⁹
133 (11) The term “Article 6 probate court” means a probate court with expanded
134 jurisdiction as defined in Article 6 of Chapter 9 of Title 15.²⁰
135 (12) The term “reporting” shall have the same meaning as “court reporting” as
136 defined in Code Section 15-14-22.
137 (13) The terms “he or she” or “his or her” mean a natural or artificial person as
138 defined in Code Section 1-2-1, a limited liability company, a foreign limited
139 liability company, a limited partnership, a foreign limited partnership, a general
140 partnership, a corporation, a foreign corporation, or other business entity.
- 141 5-3-4. Superior and state court appellate jurisdiction; exceptions; preemption
142 (a) Except as provided in subsections (b) and (c) of this Code section, the superior
143 and state courts shall have appellate jurisdiction pursuant to this chapter over a final
144 judgment of a lower judicatory.
145 (b) The superior courts shall not have appellate jurisdiction pursuant to this chapter
146 over the following courts²¹ and cases:
147 (1) State courts.
148 (2) Juvenile courts.
149 (3) The Municipal Court of Columbus.
150 (4) The Civil Court of Macon-Bibb County.
151 (5) The Civil Court of Richmond County.
152 (6) The Georgia State-wide Business Court.²²

- 153 (7) A civil case in an Article 6 probate court.²³
- 154 (8) An order appointing a temporary administrator.²⁴
- 155 (c) The state courts shall not have appellate jurisdiction pursuant to this chapter over
156 the following courts²⁵ and cases:
- 157 (1) Superior courts.
- 158 (2) Juvenile courts.
- 159 (3) The Municipal Court of Columbus.
- 160 (4) The Civil Court of Macon-Bibb County.
- 161 (5) The Civil Court of Richmond County.
- 162 (6) The Georgia State-wide Business Court.²⁶
- 163 (7) A civil case in an Article 6 probate court.²⁷
- 164 (8) An order appointing a temporary administrator.²⁸
- 165 (d) Except as provided in subsection (g) of Code Section 5-3-17,²⁹ this chapter shall
166 preempt all local laws, locally enacted laws, ordinances, regulations, rules, or
167 procedures for superior or state court review of a final judgment of a lower
168 judiciary.³⁰
- 169 5-3-5. Standard of review;³¹ appeal to jury
- 170 (a) Except as provided in subsection (b) of this Code section or otherwise provided
171 by law,³² the reviewing superior or state court shall sit as a court of review under this
172 chapter and shall review a final judgment of a lower judiciary as follows:³³ The
173 reviewing superior or state court shall —
- 174 (1) review only matters raised in the record of the proceeding in the lower
175 judiciary;³⁴
- 176 (2) accept the findings of fact and credibility³⁵ of the lower judiciary unless
177 they are clearly erroneous;³⁶
- 178 (3) accept a decision regarding an issue within the sound discretion of the lower
179 judiciary unless such a decision was an abuse of discretion;³⁷
- 180 (4) determine whether the decision of the lower judiciary was sustained by
181 sufficient evidence;³⁸ and
- 182 (5) review questions of law de novo.³⁹
- 183 (b) A reviewing superior or state court shall conduct a de novo proceeding under this
184 chapter if a de novo proceeding is specified by law.⁴⁰
- 185 (c) Cases reviewed under subsection (b) of this Code section shall be heard by the
186 reviewing superior or state court without a jury unless a jury trial is ordered by the
187 reviewing superior or state court and authorized by law.⁴¹

188 (d) A demand for a jury trial under this chapter shall be filed in the reviewing
189 superior or state court within 30 days after the filing of the petition for review.⁴²

190 5-3-6. Invoking superior or state court appellate jurisdiction; practices and
191 procedures not prescribed

192 (a) A petitioner may invoke the appellate jurisdiction of a superior or state court
193 under this chapter by filing a petition for review with the clerk of the reviewing
194 superior or state court.

195 (b) A petitioner may file a petition for review without the approval of the lower
196 judiciary.

197 (c) Except as otherwise prescribed by law or the Constitution of this state, superior
198 and state court appellate practices and procedures not prescribed in this chapter shall
199 be governed by superior or state court rule or order.

200 5-3-7. General procedures⁴³

201 (a) A petitioner shall file a petition for review with the clerk of the reviewing superior
202 or state court within 30 days⁴⁴ after the final judgment of the lower judiciary was

203 —
204 (1) signed, if a lower judiciary does not have a court clerk and notice of the
205 final judgment has been provided to all parties;⁴⁵ or
206 (2) filed or recorded, whichever first occurs, if a lower judiciary does have a
207 court clerk.

208 (b) Except as provided in subsection (c) of this Code section, all parties to the
209 proceedings in the lower judiciary are parties in the reviewing superior or state
210 court.⁴⁶

211 (c) Except for reasons other than having rendered the decision under review, the
212 lower judiciary or judge or member of a lower judiciary that rendered the decision
213 under review shall not be a party, defendant, or respondent in a petition for review.
214 To correct such error, the reviewing superior or state court shall —

215 (1) permit a petitioner to amend his or her petition for review for such purpose;
216 or
217 (2) strike the erroneously named lower judiciary or judge or member of a lower
218 judiciary that rendered the decision under review on its own motion.⁴⁷

219 (d) Except as otherwise required by law,⁴⁸ no particular form for a petition for review
220 shall be required. The suggested format for a petition for review is as follows:⁴⁹

221 (1) A caption stating the name of the petitioner and the name of the opposing
222 party, if any.

223 (2) The title “PETITION FOR REVIEW TO (SUPERIOR OR STATE)
224 COURT” in all capital letters below the caption.

225 (3) A body including the following:

226 (A) The statement: “ (name of petitioner) , the petitioner named above,
227 hereby petitions the (Superior or State) Court of (name of county) for
228 review of the decision rendered by (name of lower judicatory) on (date)
229 with the following case number designated by the lower judicatory: (lower
230 judicatory case number) .”

231 (B) A concise statement of the decision appealed.

232 (C) A brief statement describing any existing recording, transcript, or other
233 record of evidence in the lower judicatory.

234 (D) A brief statement of the offense and sentence prescribed by the lower
235 judicatory, if any, to include whether the petitioner in a criminal case is
236 confined in jail or otherwise incarcerated pending his or her appeal.⁵⁰

237 (4) The name, mailing address, telephone number, and e-mail address,⁵¹ if any,
238 of —

239 (A) the attorney for the petitioner; or

240 (B) the petitioner if he or she is a self-represented litigant.

241 (e) The petitioner shall serve a copy of the petition for review on all parties within
242 five days after the petition for review is filed in the reviewing superior or state
243 court.⁵²

244 (f) The petitioner shall serve the clerk of the lower judicatory with a copy of the
245 petition for review which includes the reviewing superior or state court case number
246 designation within five days after filing his or her petition for review in superior or
247 state court.

248 5-3-8. Responses; replies; amendments⁵³

249 (a) An opposing party shall file his or her response⁵⁴ to a petition for review with the
250 reviewing superior or state court within 30 days⁵⁵ after being served with a copy of
251 the petition for review.⁵⁶ If a de novo proceeding is required as specified in
252 subsection (b) of Code Section 5-3-5, an opposing party’s response shall include any
253 counterclaim, cross-appeal, defense, or third-party claim he or she wishes to assert.⁵⁷

254 (b) A cross-appeal or counterclaim shall not require a reply, unless one is required
255 by order of the court, and shall automatically stand denied.⁵⁸

256 (c) A petitioner shall file his or her reply to the opposing party’s response with the
257 reviewing superior or state court within 30 days⁵⁹ after being served with a copy of
258 an opposing party’s response. If a de novo proceeding is required as specified in

259 subsection (b) of Code Section 5-3-5, the petitioner's reply shall include any
260 counterclaim, cross-appeal, defense, or third-party claim he or she wishes to assert.⁶⁰
261 (d) A party may amend his or her petition for review, response, or reply under this
262 chapter as a matter of course and without leave of reviewing superior or state court
263 at any time before the entry of a pretrial order. Thereafter, a party may amend his or
264 her petition for review, response, or reply only by leave of the reviewing superior or
265 state court or by written consent of the adverse party. Such leave shall be freely
266 given by the reviewing superior or state court if justice so requires.⁶¹
267 (e) An opposing party shall serve a copy of his or her response on the petitioner.⁶²
268 (f) A petitioner shall serve a copy of his or her reply on the opposing party.

269 5-3-9. Management of proceedings; refusal to appeal; monetary limitations not
270 applicable

271 (a) The reviewing superior or state court may issue such orders and writs as may be
272 necessary to aid in its jurisdiction and manage court proceedings under this chapter.⁶³

273 (b) The reviewing superior or state court shall grant continuances and enter such
274 other orders as may be necessary to permit a just and expeditious review of a petition
275 for review.⁶⁴

276 (c) After a petition for review is filed in the reviewing superior or state court, the
277 reviewing superior or state court shall —

278 (1) establish filing deadlines for any necessary documents; and

279 (2) schedule any necessary proceedings or hearings.

280 (d) If there is more than one party plaintiff or defendant, and one or more of the
281 parties plaintiff or defendant desire to appeal, and the others refuse or fail to appeal,
282 the party plaintiff or defendant desiring to appeal may file a petition for review in
283 the manner provided in this chapter.⁶⁵ Upon the appeal of either the plaintiff or
284 defendant, all shall be bound by the final decision of the reviewing superior or state
285 court; but if damages are awarded upon such appeal, the damages shall only be
286 recovered against the party appealing and his or her security, if any, and not against
287 the party failing or refusing to appeal.⁶⁶

288 (e) The monetary limitations provided for in paragraph (5) of Code Section 15-10-2
289 shall not apply to any decision rendered by the reviewing superior or state court
290 under this chapter.⁶⁷

291 5-3-10. Service of process

292 (a) Except as otherwise provided by law,⁶⁸ service of process under this chapter shall
293 be made in the following manner:⁶⁹

294 (1) A party’s attorney or agent authorized to receive service shall be served with
295 any document, unless —
296 (A) direct service on a party is ordered by the reviewing superior or state
297 court; or
298 (B) a specific manner of service is otherwise required by law.⁷⁰
299 (2) Service of any document may be made by a party’s attorney or by a party
300 either in person, by mail, or electronically if consent to electronic service is
301 given as provided in this Code section.
302 (3) Proof of service shall be shown by —
303 (A) acknowledgment of the attorney or party served; or
304 (B) a certificate of service from the attorney, party, or other person
305 perfecting service.
306 (4) The certificate of service provided for in this subsection shall —
307 (A) be attached to the original of the document to be served;
308 (B) be taken as prima-facie proof of service; and
309 (C) read substantially as follows: “I do certify that (number of copies) of
310 the attached document(s) have been furnished to (insert name of party
311 served) by (delivery, mail, or e-mail) on (date delivered, mailed, or e-
312 mailed).”
313 (5) Service of any document may be perfected either before or after filing such
314 service with the clerk. When service is made by mail, it shall be deemed
315 perfected on the day it was deposited in the mail. As used in this Code section,
316 the term “perfected” means to take all legal steps needed to complete service of
317 process.⁷¹
318 (6) If the address of any party is unknown and the party is not represented by an
319 attorney of record, service of any document may be perfected on the party by
320 mail directed to the last known address of the party.
321 (7) Service of any document may be waived or acknowledged either before or
322 after filing.
323 (b) Except as provided in subsection (e) of this Code section, a person may consent
324 to being served with process electronically under this chapter by —⁷²
325 (1) filing a notice of consent to electronic service with the reviewing superior or
326 state court which includes the e-mail address or addresses of the person to be
327 served; or
328 (2) including his or her e-mail address or addresses in or below the signature
329 block of his or her petition for review or response.

330 (c) A person who is not an attorney may withdraw his or her consent to be served
331 with documents electronically under this chapter by filing a notice of such
332 withdrawal with the reviewing superior or state court and serving a copy of such
333 notice on all parties.

334 (d) If a person consents to electronic service of process under this chapter, such
335 person bears the responsibility of providing notice of any change in his or her e-mail
336 address or addresses.

337 (e) When an attorney files a document under this chapter via an electronic filing
338 service provider, such attorney shall be deemed to have consented to be served
339 electronically with future documents for such case at the primary e-mail address on
340 record with the electronic filing service provider. An attorney may not withdraw his
341 or her election to be served with documents electronically in cases initiated using an
342 electronic filing service provider.

343 (f) If electronic service of process is made upon a person, and such person certifies
344 to the court under oath that he or she did not receive a document, it shall be presumed
345 that such document was not received unless the serving party disputes the assertion
346 of nonservice, in which case the reviewing superior or state court shall decide the
347 issue of whether the document was served.

348 5-3-11. Deadline extensions

349 (a) Any party applying to the reviewing superior or state court for a filing deadline
350 extension shall do so before the expiration of the existing filing period in effect
351 whether prescribed or extended.

352 (b) The reviewing superior or state court may grant only one filing deadline
353 extension not to exceed 30 days for the filing of a petition for review under
354 subsection (a) of Code Section 5-3-7. The reviewing superior or state court may
355 grant such filing deadline extensions for other documents as may be necessary to
356 permit a just and expeditious review of a petition for review.

357 (c) The clerk of the reviewing superior or state court shall promptly serve all parties
358 and the clerk of the lower judicatory with a copy of —

359 (1) any extension granted under this Code section; and

360 (2) the corresponding motion filed to request such extension.

361 5-3-12. Limited grounds for dismissal

362 (a) The reviewing superior or state court may dismiss a petition for review only for
363 one or more of the following reasons:

364 (1) A petitioner fails to file a petition for review within the time prescribed or
365 extended.

366 (2) A petitioner requests review of a decision that is not appealable in the
367 reviewing superior or state court.

368 (3) The question presented by the petitioner is moot.

369 (4) The absence of a justiciable controversy.

370 (5) The record transmitted from the lower judiciary remains insufficient to
371 conduct a review under subsection (a) of Code Section 5-3-5 after the case was
372 remanded to the lower judiciary for additional proceedings.⁷³

373 (6) Failure of a petitioner to prosecute.⁷⁴

374 (7) Failure of a petitioner to comply with this chapter or any court rule or order.⁷⁵

375 (b) The reviewing superior or state court shall not immediately dismiss a petition for
376 review because of any defect in the petition for review, bond, or affidavit of
377 indigence, or because of the failure of the lower judiciary to transmit any document.
378 The reviewing superior or state court shall permit the petitioner to amend his or her
379 petition for review, bond, or affidavit of indigence for the purpose of curing any
380 defect.⁷⁶

381 (c) The reviewing superior or state court shall not immediately dismiss a petition for
382 review for failure to perfect service on any party.⁷⁷

383 5-3-13. Venue; jurisdiction; transfers

384 (a) A petitioner shall file a petition for review in the superior or state court where
385 venue and jurisdiction are proper as prescribed by the laws and Constitution of this
386 state.⁷⁸

387 (b) Upon a finding by the reviewing superior or state court that venue is improper or
388 that the reviewing superior or state court lacks jurisdiction, the clerk of the reviewing
389 superior or state court shall promptly transfer a petition for review to a court where
390 venue and jurisdiction are proper.

391 (c) Upon a finding by the lower judiciary that that venue is improper or that the
392 lower judiciary lacks jurisdiction, the clerk of the lower judiciary shall promptly
393 transfer to a court where venue and jurisdiction are proper any petition for review
394 improperly filed in a lower judiciary.

395 (d) Upon a finding by the Court of Appeals that the court lacks jurisdiction, the clerk
396 of the Court of Appeals shall promptly transfer to a court where venue and
397 jurisdiction are proper any petition for review improperly filed in the Court of
398 Appeals.

399 (e) Upon a finding by the Supreme Court that the court lacks jurisdiction, the clerk
400 of the Supreme Court shall promptly transfer to a court where venue and jurisdiction
401 are proper any petition for review improperly filed in the Supreme Court.

402 5-3-14. Record on appeal⁷⁹

403 (a) This Code section shall be construed in a manner consistent with case law
404 interpreting Code Section 5-6-41 wherever consistent and applicable.

405 (b) In misdemeanor and civil cases, a lower judicatory may require the recording,
406 reporting, or transcribing of the evidence and proceedings in the lower judicatory on
407 terms prescribed by the lower judicatory.⁸⁰

408 (c) Except as provided in subsection (d) of this Code section, in civil cases where a
409 transcript of the evidence and proceedings in the lower judicatory has not been
410 prepared and a transcript is necessary to conduct a review under this chapter, the
411 petitioner shall prepare a transcript at the petitioner's expense from recollection or
412 otherwise only if the petitioner is financially able to pay the costs of transcribing.

413 (d) In civil cases, the lower judicatory may require the parties to share the cost of
414 reporting or transcribing the evidence and proceedings in the lower judicatory only
415 if a party is financially able to pay such costs.⁸¹ If the lower judicatory determines
416 that any or all of the parties are financially unable to pay such costs, the lower
417 judicatory in its discretion may authorize the trial of the case to go unreported.⁸²

418 (e) Any party may as a matter of right have any criminal or civil case in a lower
419 judicatory reported or transcribed at the party's own expense.⁸³

420 (f) If a proceeding in the lower judicatory is reported, the court reporter shall report
421 and transcribe all —⁸⁴

422 (1) motions;

423 (2) colloquies;

424 (3) objections;

425 (4) rulings;

426 (5) evidence, whether admitted or stricken on objection or otherwise;

427 (6) copies or summaries of all documentary evidence;

428 (7) the charge of the court; and

429 (8) other proceedings before the court.

430 (g) The lower judicatory shall ensure that all matters listed in subsection (f) of this
431 Code section are included in any transcript included in the record transferred to the
432 reviewing superior or state court.⁸⁵

433 (h) If matters in a lower judicatory are not reported, such as objections to oral
434 argument, misconduct of the jury, or other like instances and a party requests a

435 transcript of such matters, the lower judiciary shall order a transcript be prepared
436 from recollection or otherwise and included as a part of the record transferred to the
437 reviewing superior or state court.⁸⁶

438 (i) A transcript of the proceedings in a lower judiciary shall not be reduced to
439 narrative form unless all parties agree; but if the proceeding in the lower judiciary
440 is not reported and the transcript of the proceeding is not available and the evidence
441 is prepared from recollection, a transcript may be prepared in narrative form.⁸⁷

442 (j) If a court reporter transcribes the evidence and proceedings in the lower
443 judiciary, he or she shall complete the transcript and file the original and one copy
444 of the transcript with the clerk of the lower judiciary together with a court reporter's
445 certificate attesting to its correctness. Upon filing of the transcript by the court
446 reporter, the transcript shall become part of the record.⁸⁸

447 (k) The clerk of the lower judiciary shall ensure that a true copy of the transcript of
448 the evidence and proceedings in the lower judiciary is included in the record
449 transmitted to the reviewing superior or state court under this chapter.⁸⁹

450 (l) If the parties cannot agree regarding whether the transcript or record truly or fully
451 discloses what transpired in the proceeding in the lower judiciary, the lower
452 judiciary shall schedule a hearing with notice to all parties to resolve the dispute
453 and conform the record to the truth.⁹⁰

454 (m) If anything material to either party is omitted from or misstated in the record
455 under review, the parties may stipulate or the lower judiciary may direct that the
456 omission or misstatement be corrected before or after the record is transmitted to the
457 reviewing superior or state court. The clerk of the lower judiciary shall promptly
458 transmit to the reviewing superior or state court any correction of the record made
459 after the record is transmitted to the reviewing superior or state court.⁹¹

460 (n) The lower judiciary may transmit a supplemental record to the reviewing
461 superior or state court if needed.⁹²

462 (o) The lower judiciary or the reviewing superior or state court may order the clerk
463 of the lower judiciary to send up any original papers, exhibits, or other items in the
464 case under review. The reviewing superior or state court shall return such original
465 papers, exhibits, or other items to the lower judiciary after the final disposition of
466 the case under review.⁹³

467 (p) A transcript of evidence and proceedings that is prepared from recollection with
468 an attached statement that all parties agree to its contents shall carry the same
469 authority as a transcript prepared by a court reporter; but if the parties cannot agree
470 regarding the correctness of a transcript prepared from recollection, the lower
471 judiciary shall decide whether it is correct. If the lower judiciary is unable to recall

472 what transpired in the case under review, the judge or member of the lower judiciary
473 shall issue a decision stating that fact. The lower judiciary's decision under this
474 subsection is final and not subject to review.⁹⁴

475 (q) If a lower judiciary does not allow a party to file a document for inclusion in
476 the record for a petition for review, such party may file the document in the
477 reviewing superior or state court with an attached notation of the lower judiciary's
478 disallowance. In such cases, the document shall become part of the record under
479 review.⁹⁵

480 (r) If all parties agree, they may file in the lower judiciary a stipulation of the case
481 showing how the question under review arose and was decided with a statement of
482 facts in lieu of a transcript of the evidence and proceedings in the lower judiciary.
483 In such cases, the parties shall provide sufficient information in the stipulation and
484 statement of facts to enable the superior or state court to conduct a review. The lower
485 judiciary must approve such stipulation and statement of facts prior to its
486 transmission to the reviewing superior or state court as part of the record.⁹⁶

487 5-3-15. Transmission of the record; notice of petitioner confined to jail; remand⁹⁷

488 (a) Upon being served with a copy of the petition for review under subsection (f) of
489 Code Section 5-3-7, the clerk of the lower judiciary shall retain the original of the
490 corresponding record and transmit a true copy of the record to the reviewing superior
491 or state court within 30 days after the copy of the petition for review is served on the
492 clerk of the lower judiciary.⁹⁸

493 (b) The clerk in the lower judiciary shall notify the reviewing superior or state court
494 if a petitioner in a criminal case is confined in jail or otherwise incarcerated pending
495 his or her appeal. Such notice shall accompany the record transmitted from the lower
496 judiciary.⁹⁹

497 (c) If no record is available for transmission to the reviewing superior or state court,
498 the clerk shall notify a judge or member of the lower judiciary accordingly so that
499 further action may be taken pursuant to this chapter.

500 (d) If the clerk of the lower judiciary does not transmit the record to the reviewing
501 superior or state court within 30 days after being served under subsection (f) of Code
502 Section 5-3-7, the petitioner shall notify the reviewing superior or state court, which
503 shall order the clerk of the lower judiciary to promptly transmit the record or
504 explain the delay.

505 (e) If the record transmitted from the lower judiciary to the reviewing superior or
506 state court is insufficient to conduct a review under subsection (a) of Code Section
507 5-3-5, the reviewing superior or state court shall vacate the decision of the lower

508 judiciary and remand the case back to the lower judiciary for additional
509 proceedings.

510 5-3-16. Payment of costs; exceptions

511 (a) The payment of all costs accrued in the lower judiciary shall not be required to
512 file a petition for review under this chapter.¹⁰⁰

513 (b) Unless otherwise prohibited by law,¹⁰¹ no petition for review in a civil case shall
514 be heard in the reviewing superior or state court unless —

515 (1) the petitioner pays all costs accrued in the lower judiciary within 30 days
516 after receiving notice of such costs; or

517 (2) the petitioner files an affidavit of indigence with the reviewing superior or
518 state court stating that the petitioner is unable to pay the costs accrued in the
519 lower judiciary because of indigence.

520 (c) The payment of costs accrued in the lower judiciary shall not be required in a
521 criminal case as a condition precedent to hearing a petition for review under this
522 chapter. As used in this subsection, “criminal case” means a case involving any
523 misdemeanor, felony, or criminal violation of a municipal or county ordinance.¹⁰²

524 (d) No appeal shall be dismissed by the reviewing superior or state court because of
525 nonpayment of the costs accrued in the lower judiciary unless the petitioner has
526 been directed by the reviewing superior or state court to pay such costs and has failed
527 to comply with the reviewing superior or state court’s direction. As used in this
528 subsection, “directed” means an order or command, not merely to advise or notify.¹⁰³

529 (e) An executor, administrator of an estate, or other trustee may file a petition for
530 review without paying costs as required by this Code section and the giving of a
531 bond and security under Code Section 5-3-17 when defending an action in such
532 capacity or when solely defending an estate’s title; but if a judgment is obtained
533 against an executor, administrator, or other trustee and not the assets of the estate,
534 then the executor, administrator of an estate, or other trustee shall pay such costs as
535 required by this Code section and give security if required under Code Section 5-3-
536 17.¹⁰⁴

537 (f) Unless the petitioner in a civil case files an affidavit of indigence with the
538 reviewing superior or state court stating that the petitioner is unable to pay the costs
539 accrued in the lower judiciary because of indigence, the petitioner in a civil case
540 shall obtain and file with the reviewing superior or state court a certificate of
541 payment of costs from the lower judiciary which shall certify that the petitioner has
542 paid the lower judiciary for all costs accrued in the lower judiciary.¹⁰⁵ Such
543 certificate shall be —

544 (1) filed in the reviewing superior or state court within five days after filing a
545 petition for review; and
546 (2) signed by a judge, clerk, member, or other designated representative of the
547 lower judiciary.

548 5-3-17. Bond and security¹⁰⁶

549 (a) Except as otherwise provided by law,¹⁰⁷ the filing of a petition for review under
550 this chapter shall act as supersedeas, which shall suspend but not vacate a final
551 judgment of a lower judiciary.¹⁰⁸

552 (b) Except as provided in subsection (c) of this Code section, a supersedeas bond
553 need not be given by a petitioner under this chapter.¹⁰⁹

554 (c) Except as provided in subsection (e) of Code Section 5-3-16 or otherwise
555 prohibited by law, the reviewing superior or state court may require that a
556 supersedeas bond be given with good security while a petition for review is under
557 review.¹¹⁰

558 (d) If a petitioner fails to give a bond when a bond is required, the supersedeas
559 provided for in subsection (a) of this Code section shall cease unless the petitioner
560 files with the reviewing superior or state court an affidavit stating that because of
561 indigence he or she is unable to give a bond.¹¹¹

562 (e) Notwithstanding any other provision of law, a bond set pursuant to this chapter
563 may not exceed the total amount of damages, fines, fees, penalties, and surcharges
564 imposed by the lower judiciary in the case under review.¹¹²

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

566 (1) If a person has been convicted of any criminal or quasi-criminal offense or
567 a violation of any ordinance, his or her bond shall be payable to the state unless
568 such conviction is in a municipal court, in which case it shall be payable to the
569 municipality under which such court exists. This subsection shall not apply to
570 constitutional city courts or state courts.¹¹³

571 (2) In civil cases, the petitioner shall make his or her bond payable to the
572 opposing party.

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

575 (4) If a secured bond is required, the person providing security shall swear under
576 oath that he or she can fulfill the bond obligation.¹¹⁴

577 (5) The giving of a bond shall be consistent with the Constitution of the United
578 States and the laws and Constitution of this state, including, but not limited to,
579 Code Section 17-6-1.¹¹⁵

580 (g) The bond may be forfeited in the same manner as any other bond in any court
581 having jurisdiction, except that a bond payable to a municipality may be forfeited as
582 prescribed in a municipal ordinance of such municipality.

583 (h) In criminal cases where a bond is required under subsection (c) of this Code
584 section, the lower judiciary shall order that the petitioner be released from custody
585 upon the giving of a bond by the petitioner.

586 (i) The supersedeas provided for in this Code section shall suspend the decision of
587 the lower judiciary until the petition for review is decided or dismissed by the
588 reviewing superior or state court or by an appellate court upon appeal, provided that
589 the petitioner applies for and procures the necessary writs for reviewing the decision
590 complained of within the time prescribed.

591 (j) If a petition for review is filed by a petitioner's attorney, he or she may sign the
592 name of the petitioner to the supersedeas bond, if required. In such cases, the
593 petitioner shall be bound by the supersedeas bond as though he or she had personally
594 signed it.¹¹⁶

595 (k) An action may be brought on the bond given under this chapter in any court
596 having jurisdiction.

597 (l) A valid bond may be amended or substituted for a void bond or no bond at all at
598 any time under this Code section.¹¹⁷

599 (m) A petitioner's surety, if any, shall be bound by the judgment in a petition for
600 review. A surety compelled to pay off the debt or damages for which judgment is
601 entered under this chapter shall only have recourse against the surety's principal.¹¹⁸

602 (n) When several partners or joint contractors bring or defend a claim, any one of the
603 partners or joint contractors may file a petition for review in the name of the firm or
604 joint contractors and sign the name of the firm or joint contractors to a bond if a bond
605 is required by the reviewing superior or state court, which shall be binding on the
606 firm and the joint contractors as though they had signed it themselves. In the case
607 of corporations, a petition for review may be filed by the president or any authorized
608 agent thereof managing the case or by the attorney of record.¹¹⁹

609 5-3-18. Procedures after review

610 (a) After a petition for review is reviewed under this chapter, the reviewing superior
611 or state court shall enter a judgment, order a petition for review be dismissed, or
612 remand a petition for review back to the lower judiciary with instructions.¹²⁰

613 (b) The reviewing superior or state court shall include the following in any final
614 decision issued pursuant to this chapter:

615 (1) If entering a judgment, a written judgment affirming, reversing, or vacating
616 the decision of the lower judiciary.

617 (2) If remanded, instructions to the lower judiciary for further proceedings.

618 (c) The clerk of the reviewing superior or state court shall serve a copy of the court's
619 decision regarding a petition for review on the clerk of the lower judiciary and all
620 parties named in the petition for review within five days after the date such decision
621 was rendered.

622 (d) The clerk of the lower judiciary shall promptly notify the judge or member of
623 the lower judiciary who decided the case below of any decision served on the clerk
624 of the lower judiciary pursuant to subsection (c) of this Code section.

625 (e) A decision by the reviewing superior or state court under this chapter may be
626 appealed to the appropriate appellate court as prescribed by law.

627 5-3-19. Effects of dismissal or withdrawal¹²¹

628 (a) If a petition for review is dismissed or withdrawn under this chapter, the rights
629 of all parties shall be the same as if no appeal had been filed.¹²² Notwithstanding
630 any other provision of law, the dismissal or withdrawal of a petition for review under
631 this chapter —

632 (1) shall dismiss the petition for review;

633 (2) shall not dismiss the petitioner's underlying case from the lower judiciary or
634 vacate the decision of the lower judiciary; and

635 (3) shall reinstate the decision of the lower judiciary as if the petition for review
636 had never been filed.

637 (b) This Code section shall apply to all cases irrespective of the standard of review
638 applied under Code Section 5-3-5.

639 5-3-20. Damages for frivolous appeals in civil cases

640 (a) If in any petition for review the jury or reviewing superior or state court finds
641 that such appeal was frivolous and intended only for delay, the jury or reviewing
642 superior or state court shall assess damages against the petitioner and the petitioner's
643 security, if any, in favor of the opposing party for the delay, which shall be specially
644 noted in the jury's verdict or the reviewing superior or state court's decision and
645 shall not extend beyond 20 percent on the principal sum that the jury or the reviewing
646 superior or state court finds due.¹²³

647 (b) This Code section shall apply only to civil cases where a petition for review
648 results in a judgment for a sum of money.¹²⁴

649 5-3-21. Recovery of costs
650 (a) If a petition for review is sustained and a final decision regarding the case is made
651 by the reviewing superior or state court, the petitioner may have judgment entered
652 for the sum recovered by the petitioner, the costs paid to obtain the petition for
653 review, and the costs in the reviewing superior or state court.
654 (b) If a petition for review is returned to the lower judiciary for a new hearing, the
655 petitioner shall have judgment entered for the costs in the reviewing superior or state
656 court only, leaving the costs paid to obtain the petition for review to be awarded
657 upon the final decision of the lower judiciary after the new hearing.¹²⁵
658 (c) If a petition for review is dismissed and a final decision regarding the case is
659 made by the reviewing superior or state court, the opposing party in a petition for
660 review may have judgment entered in the reviewing superior or state court against
661 the petitioner and his or her security for the sum recovered by the opposing party,
662 together with the costs in the reviewing superior or state court.¹²⁶
663 (d) If a petition for review is returned to the lower judiciary and the lower judiciary
664 decides the case in favor of the opposing party, then the security on the petition for
665 review bond shall be included in the lower judiciary's judgment.¹²⁷

666 **PART II**
667 **SECTION 2-1**

668 Said Title is further amended by repealing Chapter 4, relating to certiorari to superior
669 court, in its entirety and designating said Chapter as reserved.

670 **PART III**
671 **SECTION 3-1**

672 Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages, is
673 amended by revising subsection (e) of Code Section 3-2-35, as follows:

674 (e) An appeal from the commissioner's order may be taken to the Superior Court of
675 Fulton County by filing with the commissioner, within 15 days from the date of the
676 decision, ~~a notice of appeal to~~ copy of a petition for review filed in the Superior Court
677 of Fulton County. The appeal shall be based upon the record made before the
678 commissioner, ~~and the commissioner, upon the filing of a notice of appeal,~~ The
679 commissioner shall transmit the record and appropriate documents to the superior
680 court within 30 days ~~from~~ after the date of the ~~filing of notice of appeal~~ petition for
681 review is received. The superior court shall review the record for errors of law,

682 violation of constitutional or statutory provisions, violation of the statutory authority
683 of the agency, lawfulness of the procedure, lack of any evidence to support the
684 decision, and arbitrariness and abuse of discretion. However, the court shall not
685 substitute its judgment for that of the hearing officer as to the weight of evidence on
686 questions of fact.

687 **SECTION 3-2**

688 Title 4 of the Official Code of Georgia Annotated, relating to animals, is amended by
689 revising subsection (f) of Code Section 4-8-23, as follows:

690 (f) Judicial review of the authority's final decision may be had in accordance with
691 Code Section 15-9-30.9. Judicial review of a probate court's final decision shall be
692 in accordance with Code Section 5-3-~~24~~ and costs shall be paid as provided in Code
693 Section 5-3-~~22~~16.

694 **SECTION 3-3**

695 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is
696 amended by revising subsection (a) of Code Section 10-1-787, as follows:

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

702 **SECTION 3-4**

703 Said title is further amended by revising subsections (a) and (b) of Code Section 10-14-
704 22, as follows:

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

- 711 (1) The order from which the appeal is taken;
712 (2) The ground upon which a reversal or modification of such order is sought;
713 and
714 (3) A demand for a certified transcript of the record of such order.

715 (b) Upon receipt of such ~~notice of appeal~~petition for review, the Secretary of State
716 shall, within ten days thereafter, make, certify, and deliver to the ~~appellant~~clerk of
717 the Superior Court of Fulton County a transcript of the record of the order from
718 which the appeal is taken, provided that the ~~appellant~~petitioner shall pay the
719 reasonable costs of such transcript. ~~The appellant shall, within five days after receipt~~
720 ~~of such transcript, file such transcript and a copy of the notice of appeal with the~~
721 ~~clerk of the court.~~Said notice of appeal petition for review and transcript of the record
722 shall constitute appellant's complaint. Said complaint shall thereupon be entered on
723 the trial calendar of the court in accordance with the court's normal procedures.

724

SECTION 3-5

725 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural
726 resources, is amended by revising subsection (c) of Code Section 12-3-194.1, as follows:

727 (c) For purposes of this Code section, the Magistrate Court of DeKalb County shall
728 have jurisdiction and authority to hear and try those offenses occurring within the
729 limits of Stone Mountain Park which violate the ordinances of the association and to
730 punish violations of such ordinances, all in the manner and to the extent prescribed
731 in Article 4 of Chapter 10 of Title 15. ~~The State Court of DeKalb County shall have~~
732 ~~jurisdiction and authority to hear and try all cases removed from the Magistrate Court~~
733 ~~of DeKalb County for jury trial by any defendant charged with one or more~~
734 ~~violations of the ordinances of the association. The Superior Court of DeKalb~~
735 ~~County shall have jurisdiction to review all convictions by~~ certiorari petition for
736 review to the superior court. The jurisdiction and authority of the courts of DeKalb
737 County provided for in this Code section shall be in addition to and not in limitation
738 of the jurisdiction and authority of such courts as may be now or hereafter provided.

739

SECTION 3-6

740 Said title is further amended by revising subsection (b) of Code Section 12-3-236.1, as
741 follows:

742 (b) For purposes of this Code section, the Magistrate Court of Glynn County shall
743 have jurisdiction and authority to hear and try those cases occurring within the limits
744 of Jekyll Island in which a person is charged with violating an ordinance of the
745 authority and to punish violations of such ordinances, all in the manner and to the
746 extent prescribed in Article 4 of Chapter 10 of Title 15. The State Court of Glynn
747 County shall have jurisdiction and authority to hear and try all cases removed from
748 the Magistrate Court of Glynn County for jury trial by any defendant charged with
749 one or more violations of the ordinances of the authority. The Superior Court of

750 Glynn County shall have jurisdiction to review all convictions by ~~certiorari~~petition
751 for review to the superior court. The jurisdiction and authority of the courts of Glynn
752 County provided for in this Code section shall be in addition to and not in limitation
753 of the jurisdiction and authority of such courts as may be now or hereafter provided.

754 **SECTION 3-7**

755 Title 15 of the Official Code of Georgia Annotated, relating to courts, by revising
756 paragraph (1) of Code Section 15-6-9, as follows:

757 The judges of the superior courts have authority:

758 (1) To grant for their respective circuits ~~writs of certiorari~~petitions for review,
759 supersedeas, quo warranto, mandamus, habeas corpus, and bail in actions ex
760 delicto;

761 **SECTION 3-8**

762 Said title is further amended by revising Code Section 15-9-120, as follows:

763 As used in this article, ~~the term~~:

764 (1) The term “~~C~~ivil case” means those civil matters:

- 765 (A) Over which the judge of the probate court exercises judicial powers;
766 (B) Within the original, exclusive, or general subject matter jurisdiction of
767 the probate court; and
768 (C) Which, if not for this article and Code Section 5-6-33, could be appealed
769 to superior court for a de novo investigation with the right to a jury trial
770 under Code Sections 5-3-~~24~~ and 5-3-~~295~~.

771 (2) The term “~~P~~robate court” means a probate court of a county having a
772 population of more than 90,000 persons according to the United States decennial
773 census of 2010 or any future such census in which the judge thereof has been
774 admitted to the practice of law for at least seven years.

775 **SECTION 3-9**

776 Said title is further amended by revising subsection (b) of Code Section 15-10-41, as
777 follows:

778 (b)

779 (1) Except as otherwise provided in this subsection, appeals may be had from
780 judgments returned in the magistrate court to the state court of the county or to
781 the superior court of the county and the same provisions now provided for by
782 general law for appeals contained in ~~Article 2~~ of Chapter 3 of Title 5 shall be
783 applicable to appeals from the magistrate court, the same to be a de novo appeal.

784 The provisions of ~~said Article 2~~ of Chapter 3 of Title 5 shall also apply to appeals
785 to state court.

786 (2) No appeal shall lie from a default judgment or from a dismissal for want of
787 prosecution after a nonappearance of a plaintiff for trial. Any voluntary
788 dismissal by the plaintiff or by order of the court for want of prosecution shall
789 be without prejudice except that the filing of a second such dismissal shall
790 operate as an adjudication upon the merits. Review, including review of a denial
791 of a postjudgment motion to vacate a judgment, shall be by ~~certiorari~~petition for
792 review to the state court of that county or to the superior court of that county.

793 **SECTION 3-10**

794 Said title is further amended by revising Code Section 15-10-65, as follows:

795 15-10-65. ~~Certiorari~~Petition for review to superior court

796 Review of convictions shall be by ~~certiorari~~petition for review to the superior court.

797 **SECTION 3-11**

798 Said title is further amended by revising subsection (c) of Code Section 15-14-7, as
799 follows:

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

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

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

811 **SECTION 3-12**

812 Said title is further amended by revising subsection (a) of Code Section 15-21A-6, as
813 follows:

814 (a) In addition to all other legal costs, there shall be charged to the filing party and
815 collected by the clerk an additional filing fee of \$15.00 in each civil action or case
816 filed in the superior, state, recorder's, mayor's, and magistrate courts except that
817 municipalities, counties, and political subdivisions shall be exempt from such fee.

818 Without limiting the generality of the foregoing, such fee shall apply to all adoptions,
819 ~~certiorari~~ petitions for review, trade name registrations, applications for change of
820 name, and all other proceedings of a civil nature. Any matter which is docketed
821 upon the official dockets of the enumerated courts and to which a number is assigned
822 shall be subject to such fee, whether such matter is contested or not.

823 **SECTION 3-13**

824 Said title is further amended by revising subsection (a) of Code Section 15-21A-6.1, as
825 follows:

826 (a) In addition to all other legal costs, there shall be charged to the filing party and
827 collected by the clerk an additional filing fee of \$125.00, to be known as a judicial
828 operations fund fee, in each civil action or case filed in a superior court except that
829 the state, including, but not limited to, its departments, agencies, boards, bureaus,
830 commissions, public corporations, and authorities, municipalities, counties, and
831 political subdivisions shall be exempt from such fee. Without limiting the generality
832 of the foregoing, such fee shall apply to all adoptions, ~~certiorari~~ petitions for review,
833 trade name registrations, applications for change of name, and all other proceedings
834 of a civil nature. Any matter which is docketed upon the official dockets of the
835 superior court and to which a number is assigned shall be subject to such fee, whether
836 such matter is contested or not; provided, however, that the judicial operations fund
837 fee shall not apply to the issuance of certificates of appointment and reappointment
838 of notaries public.

839 **SECTION 3-14**

840 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
841 amended by revising subsection (g) of Code Section 17-6-1, as follows:

842 (g) No appeal bond shall be granted to any person who has been convicted of murder,
843 rape, aggravated sodomy, armed robbery, home invasion in any degree, aggravated
844 child molestation, child molestation, kidnapping, trafficking in cocaine or marijuana,
845 aggravated stalking, or aircraft hijacking and who has been sentenced to serve a
846 period of incarceration of five years or more. The granting of an appeal bond to a
847 person who has been convicted of any other felony offense or of any misdemeanor
848 offense involving an act of family violence as defined in Code Section 19-13-1, or
849 of any offense delineated as a high and aggravated misdemeanor or of any offense
850 set forth in Code Section 40-6-391, shall be in the discretion of the convicting court.
851 Appeal bonds shall terminate when the right of appeal terminates, and such bonds
852 shall not be effective as to any petition for review or petition or application for writ

853 of certiorari unless the court in which the petition for review or petition or application
854 for writ of certiorari is filed so specifies.

855 **SECTION 3-15**

856 Title 22 of the Official Code of Georgia Annotated, relating to eminent domain, is
857 amended by revising Code Section 22-3-44, as follows:

858 Within 30 days after the award of condemnation is made pursuant to Part 4 of Article
859 1 of Chapter 2 of this title or pursuant to Article 2 of Chapter 2 of this title, any party
860 may appeal to the superior court of the county in which the public roads or highways
861 lie by filing a petition for review with ~~the judge of the probate court of the county a~~
862 ~~written notice of appeal. Within ten days after his receipt of the notice, the judge~~
863 ~~shall transmit the notice to~~ the superior court. The trial on such an appeal shall be
864 de novo.

865 **SECTION 3-16**

866 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by
867 revising subsection (b) of Code Section 31-6-44.1, as follows:

868 (b) ~~In the event~~ If a party seeks judicial review, the department shall, within 30 days
869 ~~of~~ after the filing of the ~~notice of appeal~~ petition for review with the superior court,
870 transmit certified copies of all documents and papers in its file together with a
871 transcript of the testimony taken and its findings of fact and decision to the clerk of
872 the superior court to which the case has been appealed. The case so appealed may
873 then be brought by either party upon ten days' written notice to the other before the
874 superior court for a hearing upon such record, subject to an assignment of the case
875 for hearing by the court; provided, however, if the court does not hear the case within
876 120 days of the date of docketing in the superior court, the decision of the department
877 shall be considered affirmed by operation of law unless a hearing originally
878 scheduled to be heard within the 120 days has been continued to a date certain by
879 order of the court. ~~In the event~~ If a hearing is held later than 90 days after the date of
880 docketing in the superior court because same has been continued to a date certain by
881 order of the court, the decision of the department shall be considered affirmed by
882 operation of law if no order of the court disposing of the issues on appeal has been
883 entered within 30 days after the date of the continued hearing. If a case is heard
884 within 120 days from the date of docketing in the superior court, the decision of the
885 department shall be considered affirmed by operation of law if no order of the court
886 dispositive of the issues on appeal has been entered within 30 days of the date of the
887 hearing.

888

SECTION 3-17

889 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and
890 ferries, is amended by revising subsection (c) of Code Section 32-3-11, as follows:

891 (c) If the condemnee desires to raise such questions as are outlined in subsection (b)
892 of this Code section, the same shall be done by proper pleadings, in the form of a
893 petition for review addressed to the judge of the superior court having jurisdiction
894 thereof, filed in the same proceedings not later than 30 days subsequent to the date
895 of service upon the condemnee of the declaration of taking. The presiding judge
896 shall thereupon cause a rule nisi to be issued and served upon the condemnor,
897 requiring him to show cause at a time and place designated by the judge why the title
898 acquired by the declaration of taking should not be vacated and set aside in the same
899 way and manner as is now provided for setting aside deeds acquired by fraud. Such
900 hearing shall be had not earlier than 15 days from the time of service of the rule nisi
901 upon the condemnor, nor later than 60 days from the date of filing of the declaration
902 of taking, and with the right of appeal by either party, as in other cases. A petition
903 for review filed pursuant to this subsection shall be governed by the procedures set
904 forth in Chapter 3 of Title 5 only to the extent such procedures are not inconsistent
905 with this article.

906

SECTION 3-18

907 Said title is further amended by revising Code Section 32-3-14, as follows:

908 32-3-14. ~~Filing notice of appeal~~ petition for review

909 If the owner, or any of the owners, or any person having a claim against or interest
910 in the property is dissatisfied with the amount of compensation as estimated in the
911 declaration of taking and deposited in court, as provided for in Code Section 32-3-
912 7, such person or persons, or any of them, shall have the right, at any time subsequent
913 to the filing of the declaration and the deposit of the fund into court, but not later
914 than 30 days following the date of the service as provided for in Code Sections 32-
915 3-8 and 32-3-9, to file with the court a ~~notice of appeal~~ petition for review, the same
916 to be in writing and made a part of the record in the proceedings.

917

SECTION 3-19

918 Said title is further amended by revising subsection (a) of Code Section 32-3-16, as
919 follows:

920 (a) After the ~~notice of appeal~~ petition for review has been filed as provided in Code
921 Section 32-3-14, it shall be the duty of the court at the next term thereof, which shall

922 convene not earlier than 30 days subsequent to the date of service, as provided for in
923 Code Sections 32-3-8 and 32-3-9, to cause an issue to be made and tried by a jury as
924 to the value of the property or interest taken and the consequential damages to
925 property or interests not taken, with the same right to move for a new trial and file a
926 ~~notice of appeal~~petition for review as in other cases at law, provided that an
927 interlocutory award has not become final pursuant to Code Section 32-3-15.

928 **SECTION 3-20**

929 Said title is further amended by revising subsection (c) of Code Section 32-3-16, as
930 follows:

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

937 **SECTION 3-21**

938 Said title is further amended by revising Code Section 32-3-17.1, as follows:

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

946 **SECTION 3-22**

947 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
948 revising Code Section 33-2-27, as follows:

949 (a) The form of proceeding for judicial review shall be by a petition for review in the
950 Superior Court of Fulton County, a copy of which shall be served upon the
951 Commissioner immediately.

952 (b) The proceedings shall follow the course which is now or may hereafter be
953 prescribed for civil actions in the superior courts, provided that the reviewing court
954 may by order extend the time required for filing any pleadings or motions. In

955 addition, the reviewing court may provide by order for expeditious hearing or trial
956 of any such proceedings as justice or the public interest may require.

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

961 (d) Pending judicial review pursuant to any proceeding authorized for the purpose,
962 the Commissioner, if the action has not become effective, may postpone the effective
963 date of the action complained of. Upon such conditions as may be required and to
964 the extent necessary to preserve the status of proceedings or the rights of the parties
965 or to prevent irreparable injury, in any proceeding for judicial review the reviewing
966 court or any appellate court is authorized to issue all necessary and appropriate orders
967 to postpone the effective date of any action or temporarily to grant or extend relief
968 denied or withheld.

969 (e) Whether or not prayed for, the court may remand the matter for further
970 proceedings or findings on terms specified by order or may require the parties to
971 complete any record found to be inaccurate or inadequate for decision.

972 SECTION 3-23

973 Said title is further amended by revising subsection (b) of Code Section 33-6-8, as
974 follows:

975 (b) The Commissioner may at any time before the serving of ~~notice of appeal~~ a copy
976 of a petition for review filed in superior court upon him, as provided for in Code
977 Section 33-6-11, or after the expiration of the time allowed by law for the serving of
978 ~~the notice~~ a petition for review, if no ~~notice~~ petition for review has been thus served,
979 amend or set aside in whole or in part any order issued by him under this Code
980 section whenever in his opinion the facts and circumstances surrounding the case
981 have so changed as to require the action or if the public interest shall so require. No
982 change of an order in a manner unfavorable to the person charged or to the parties at
983 interest shall be made except after notice and opportunity for hearing. The date of
984 the Commissioner's last order shall be the point of time from which it may be
985 reviewed by appeal.

986 SECTION 3-24

987 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial
988 relations, is amended by revising subsection (f) of Workers' Compensation Rule 105, as
989 follows:

990 (f) Any party filing with the Board ~~an appeal to~~ a copy of a petition for review filed
991 in Superior Court naming the Board as a party shall pay the reasonable copying and
992 transmittal costs of the Board. Upon good cause shown, the Board may waive the
993 copying and transmittal costs.

994 **SECTION 3-25**

995 Title 36 of the Official Code of Georgia Annotated, relating to local government, is
996 amended by revising subsection (a) of Code Section 36-15-9, as follows:

997 (a) For the purpose of providing funds for those uses specified in Code Section 36-
998 15-7, a sum not to exceed \$5.00, in addition to all other legal costs, may be charged
999 and collected in each action or case, either civil or criminal, including, without
1000 limiting the generality of the foregoing, all adoptions, ~~certiorari~~ petitions for review,
1001 applications by personal representatives for leave to sell or reinvest, trade name
1002 registrations, applications for change of name, and all other proceedings of civil or
1003 criminal or quasi-criminal nature, filed in the superior, state, probate, and any other
1004 courts of record, except county recorders' courts or municipal courts. The amount
1005 of such additional costs to be charged and collected, if any, in each such case shall
1006 be fixed by the chief judge of the superior court of the circuit in which such county
1007 is located. Such additional costs shall not be charged and collected unless the chief
1008 judge first determines that a need exists for a law library in the county. The clerk of
1009 each and every such court in such counties in which such a law library is established
1010 shall collect such fees and remit the same to the treasurer of the board of trustees of
1011 the county law library of the county in which the case was brought, on the first day
1012 of each month. Where fees collected by the treasurer have been allocated for the
1013 purpose of establishing or maintaining the codification of county ordinances, the
1014 allocated amount shall in turn be remitted by the treasurer to the county governing
1015 authority for said purpose on a monthly basis or as otherwise agreed by the treasurer
1016 and the county governing authority. The county ordinance code provided for in
1017 subsection (a) of Code Section 36-15-7 shall be maintained by the county governing
1018 authority. When the costs in criminal cases are not collected, the cost provided in
1019 this Code section shall be paid from the fine and bond forfeiture fund of the court in
1020 which the case is filed, before any other disbursement or distribution of such fines
1021 or forfeitures is made.

1022 **SECTION 3-26**

1023 Said title is further amended by revising subsection (e) of Code Section 36-32-2.1, as
1024 follows:

1025 (e) Removal proceedings shall consist of an open and public hearing held by the
1026 governing authority of the municipal corporation, provided that the judge against
1027 whom such charges have been brought shall be furnished a copy of the charges at
1028 least ten days prior to the hearing. At the conclusion of the hearing, the governing
1029 authority of the municipal corporation shall determine whether or not to remove the
1030 judge from office. The governing authority of the municipal corporation may adopt
1031 rules governing the procedures at such hearings, provided that such hearings comport
1032 with due process. ~~The right of certiorari from the decision to remove a judge from~~
1033 ~~office shall exist, and such certiorari shall be obtained under the sanction of a judge~~
1034 ~~or~~ may be appealed by a petition for review to the superior court of the circuit in
1035 which the governing authority of the municipal corporation is situated.

1036 **SECTION 3-27**

1037 Said title is further amended by revising Code Section 36-74-48, as follows:

1038 An aggrieved party, including the local governing body, may appeal a final
1039 administrative order of an enforcement board to the superior court of the county in
1040 which the subject property is located. Such an appeal shall be in the form of a ~~writ~~
1041 ~~of certiorari~~ petition for review governed by Chapter 43 of Title 5 and shall be heard
1042 on the record. An appeal shall be filed within 30 days of the execution of the order
1043 to be appealed.

1044 **SECTION 3-28**

1045 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended
1046 by revising Code Section 37-4-110, as follows:

1047 The client, the client's representatives, or the client's attorney may appeal any order
1048 of the probate court or administrative law judge rendered in a proceeding under this
1049 chapter to the superior court of the county in which the proceeding was held, except
1050 as otherwise provided in Article 6 of Chapter 9 of Title 15, and may appeal any order
1051 of the juvenile court rendered in a proceeding under this chapter to the Court of
1052 Appeals or the Supreme Court. The appeal to the superior court shall be made in the
1053 same manner as appeals from the probate court to the superior court, except that the
1054 appeal shall be heard before the court sitting without a jury as soon as practicable
1055 but not later than 30 days following the date on which the appeal is filed with the
1056 clerk of the superior court. The appeal from the order of the juvenile court to the
1057 Court of Appeals or the Supreme Court shall be as provided by law but shall be heard
1058 as expeditiously as possible. The client must pay all costs upon filing any appeal
1059 authorized under this Code section or must make an affidavit that he or she is unable

1060 to pay costs. The client shall retain all rights of review of any order of the superior
1061 court, the Court of Appeals, or the Supreme Court as provided by law. The client
1062 shall have a right to counsel or, if unable to afford counsel, shall have counsel
1063 appointed for the client by the court. The appeal rights provided to the client, the
1064 client's representatives, or the client's attorney in this Code section are in addition
1065 to any other appeal rights which the parties may have, and the provision of the right
1066 for the client, the client's representatives, or the client's attorney to appeal does not
1067 deny the right to the Department of Behavioral Health and Developmental
1068 Disabilities to appeal under the general appeal provisions of Code Sections ~~5-3-2~~
1069 ~~and 5-3-34~~.

SECTION 3-29

1070
1071 Said title is further amended by revising Code Section 37-3-150, as follows:

1072 The patient, the patient's representatives, or the patient's attorney may appeal any
1073 order of the probate court or hearing officer rendered in a proceeding under this
1074 chapter to the superior court of the county in which the proceeding was held, except
1075 as otherwise provided in Article 6 of Chapter 9 of Title 15, and may appeal any order
1076 of the juvenile court rendered in a proceeding under this chapter to the Court of
1077 Appeals or the Supreme Court. The appeal to the superior court shall be made in the
1078 same manner as appeals from the probate court to the superior court, except that the
1079 appeal shall be heard before the court sitting without a jury as soon as practicable
1080 but not later than 30 days following the date on which the appeal is filed with the
1081 clerk of the superior court. The appeal from the order of the juvenile court to the
1082 Court of Appeals or the Supreme Court shall be as provided by law but shall be heard
1083 as expeditiously as possible. The patient must pay all costs upon filing any appeal
1084 authorized under this Code section or must make an affidavit that he or she is unable
1085 to pay costs. The patient shall retain all rights of review of any order of the superior
1086 court, the Court of Appeals, or the Supreme Court, as provided by law. The patient
1087 shall have a right to counsel or, if unable to afford counsel, shall have counsel
1088 appointed for the patient by the court. The appeal rights provided to the patient, the
1089 patient's representatives, or the patient's attorney in this Code section are in addition
1090 to any other appeal rights which the parties may have, and the provision of the right
1091 for the patient, the patient's representatives, or the patient's attorney to appeal does
1092 not deny the right to the Department of Behavioral Health and Developmental
1093 Disabilities to appeal under the general appeal provisions of Code Sections ~~5-3-2~~
1094 ~~and 5-3-34~~.

1095

SECTION 3-30

1096 Said title is further amended by revising Code Section 37-7-150, as follows:

1097 The patient, the patient’s representatives, or the patient’s attorney may appeal any
1098 order of the probate court or hearing officer rendered in a proceeding under this
1099 chapter to the superior court of the county in which the proceeding was held, except
1100 as otherwise provided in Article 6 of Chapter 9 of Title 15, and may appeal any order
1101 of the juvenile court rendered in a proceeding under this chapter to the Court of
1102 Appeals or the Supreme Court. The appeal to the superior court shall be made in the
1103 same manner as appeals from the probate court to the superior court, except that the
1104 appeal shall be heard before the court sitting without a jury as soon as practicable
1105 but not later than 30 days following the date on which the appeal is filed with the
1106 clerk of the superior court. The appeal from the order of the juvenile court to the
1107 Court of Appeals or the Supreme Court shall be as provided by law but shall be heard
1108 as expeditiously as possible. The patient must pay all costs upon filing any appeal
1109 authorized under this Code section or must make an affidavit that he or she is unable
1110 to pay costs. The patient shall retain all rights of review of any order of the superior
1111 court, the Court of Appeals, or the Supreme Court, as provided by law. The patient
1112 shall have a right to counsel or, if unable to afford counsel, shall have counsel
1113 appointed for the patient by the court. The appeal rights provided to the patient, the
1114 patient’s representatives, or the patient’s attorney in this Code section are in addition
1115 to any other appeal rights which the parties may have, and the provision of the right
1116 for the patient, the patient’s representatives, or the patient’s attorney to appeal does
1117 not deny the right to the Department of Behavioral Health and Developmental
1118 Disabilities to appeal under the general appeal provisions of Code Sections ~~5-3-2~~
1119 ~~and 5-3-34~~.

1120

SECTION 3-31

1121 Title 38 of the Official Code of Georgia Annotated, relating to military, emergency
1122 management, and veterans affairs, is amended by revising subsection (b) of Code Section
1123 38-3-64, as follows:

1124 (b) A ~~notice of appeal~~ petition for review shall be filed no later than 45 days after the
1125 expiration of the judicial emergency order, or any modification or extension of a
1126 judicial emergency order, from which an appeal is sought. A ~~notice of appeal~~ petition
1127 for review shall be filed with the clerk of a superior court in any jurisdiction affected
1128 by the order and shall be served upon:

1129 (1) The authorized judicial official who issued the order;

- 1130 (2) The parties to any criminal proceeding or civil litigation in which the
1131 appellant is involved which would be affected by the appeal;
1132 (3) The district attorney of the county in which the ~~notice of appeal~~petition for
1133 review is filed; and
1134 (4) All other parties in any criminal proceeding or civil litigation which would
1135 be affected by the appeal; provided, however, that service in this regard shall be
1136 accomplished by publishing notice of the filing of the appeal in the newspaper
1137 which is the legal organ for the county in which the ~~notice of appeal~~petition for
1138 review is filed.

1139 **SECTION 3-32**

1140 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic,
1141 is amended by revising Code Section 40-13-28, as follows:

1142 Any defendant convicted under this article shall have the right of appeal to the
1143 superior court. The provisions of subsections (b), (c), and (d) of Code Sections 5-3-
1144 295 and subsection (e) of Code Section 5-3-309 shall not apply to appeals under this
1145 Code section. Otherwise, the appeal shall be entered as appeals are entered from the
1146 probate court to the superior court, provided that the defendant shall be entitled to
1147 bail and shall be released from custody upon giving the bond as is provided for
1148 appearances in criminal cases in the courts of this state. Such bond shall have the
1149 same conditions as appearance bonds in criminal cases. The appeal to the superior
1150 court shall not be a de novo investigation before a jury but shall be on the record of
1151 the hearing as certified by the judge of that court who presided at the hearing below.

1152 **SECTION 3-33**

1153 Title 41 of the Official Code of Georgia Annotated, relating to nuisances, is amended by
1154 revising subsection (d) of Code Section 41-2-9, as follows:

1155 (d) Where the abatement action does not commence in the superior court, review of
1156 a court order requiring the repair, alteration, improvement, or demolition of a
1157 dwelling, building, or structure shall be ~~by direct~~a de novo proceeding in appeal to
1158 the superior court under Code Sections 5-3-294 and 5-3-5.

1159 **SECTION 3-34**

1160 Title 43 of the Official Code of Georgia Annotated, relating to professions and
1161 businesses, is amended by revising subsections (a) and (b) of Code Section 43-17-17, as
1162 follows:

1163 (a) An appeal may be taken from any order of the Secretary of State resulting from
1164 a hearing held in accordance with Code Section 43-17-16 by any person adversely
1165 affected thereby to the Superior Court of Fulton County by serving the Secretary of
1166 State, within 20 days after the date of entry of such order, a ~~written notice of~~
1167 ~~appeal~~, copy of a petition for review filed in the Superior Court of Fulton County and
1168 signed by the ~~appellant~~ petitioner, stating:

- 1169 (1) The order from which the appeal is taken;
1170 (2) The ground upon which a reversal or modification of the order is sought; and
1171 (3) A demand for a certified transcript of the record of the order.

1172 (b) Upon receipt of the ~~notice of appeal~~ petition for review, the Secretary of State
1173 shall, within ten days thereafter, make, certify, and deliver to the ~~appellant~~ Superior
1174 Court of Fulton County a transcript of the record of the order from which the appeal
1175 is taken, provided that the appellant shall pay the reasonable costs of such transcript.
1176 ~~The appellant, within five days after receipt of the transcript, shall file such transcript~~
1177 ~~and a copy of the notice of appeal with the clerk of the court. The notice of~~
1178 ~~appeal~~ petition for review and transcript of the record shall constitute appellant's
1179 complaint. The complaint shall thereupon be entered on the trial calendar of the
1180 court.

1181 SECTION 3-35

1182 Said title is further amended by revising subsections (c) and (d) of Code Section 43-17-
1183 4, as follows:

1184 (c) Such deposits shall be held for the benefit of all persons to whom the applicant
1185 is liable for damages under this chapter for a period of two years after such
1186 applicant's registration has expired or been revoked; provided, however, such
1187 deposits shall not be released at any time while there is pending against the applicant
1188 an action (including any direct appeal of such action, ~~or~~ an appeal based on a petition
1189 for certiorari jurisdiction, or a petition for review), of which the Secretary of State
1190 has notice, in a court of competent jurisdiction in which it is alleged that the applicant
1191 is liable for damages under this chapter. Such deposits shall not be released except
1192 upon application to and the written order of the Secretary of State. The Secretary of
1193 State shall have no liability for any such release of any deposit or part thereof made
1194 by him in good faith. The Secretary of State may designate any regularly constituted
1195 state depository having trust powers domiciled in this state as a depository to receive
1196 and hold any such deposit. Any such deposit so held shall be at the expense of the
1197 applicant. Such depository shall give to the Secretary of State a proper trust and
1198 safekeeping receipt upon which the Secretary of State shall give an official receipt

1199 to the applicant. The State of Georgia shall be responsible for the safekeeping and
1200 return of all deposits made pursuant to this Code section. So long as the applicant
1201 complies with this chapter, the applicant may demand, receive, bring an action for,
1202 and recover the income from the securities deposited or may exchange and substitute
1203 for the letter of credit or securities deposited or a part thereof, with the approval of
1204 the Secretary of State, a letter of credit or securities of the kinds specified in
1205 subsection (b) of this Code section of equivalent or greater value. No judgment
1206 creditor or other claimant of the applicant shall levy upon any deposit held pursuant
1207 to this Code section or upon any part thereof, except as specified in this subsection.
1208 Whenever any person shall file an action in a court of competent jurisdiction in
1209 which it is alleged that the applicant is liable for damages under this chapter, such
1210 person, in order to secure his recovery, may give notice to the Secretary of State of
1211 such alleged liability and of the amount of damages claimed, after which notice the
1212 Secretary of State shall be bound to retain, subject to the order of the Superior Court
1213 of Fulton County, as provided in subsection (d) of this Code section, a sufficient
1214 amount of the deposit to pay the judgment in the action.

1215 (d) ~~In the event~~ If that the applicant prevails in such action and ~~in the event that~~ such
1216 deposits have been held by the Secretary of State for a period of at least two years
1217 after the applicant's registration has expired or been revoked, then such deposits
1218 shall be released to the applicant; provided, however, such deposits shall not be
1219 released at any time while there is pending against the applicant an action (including
1220 any direct appeal of such action, ~~or~~ an appeal based on a petition for certiorari
1221 jurisdiction, or a petition for review), of which the Secretary of State has notice, in a
1222 court of competent jurisdiction in which it is alleged that the applicant is liable for
1223 damages under this chapter. If a judgment is rendered in such action by which it is
1224 determined that the applicant is liable for damages under this chapter and the
1225 applicant has not paid the judgment within ten days of the date the judgment became
1226 final or if the applicant petitions the Supreme Court of the United States to take
1227 certiorari jurisdiction over such action and the applicant has not paid the judgment
1228 within ten days of the date the Supreme Court of the United States denies certiorari
1229 jurisdiction or within ten days of the date the Supreme Court of the United States
1230 affirms the judgment, then such person may petition the Superior Court of Fulton
1231 County for an order directing the Secretary of State to reduce such deposit or a
1232 portion thereof sufficient to pay the judgment to cash or its equivalent and to pay
1233 such judgment to the extent the judgment may be satisfied with the proceeds of the
1234 deposit. If there shall remain any residue from the deposit and if at least two years
1235 have passed since the expiration or revocation of the applicant's registration, the

1236 Secretary of State shall pay such residue to the applicant, taking his receipt for the
1237 residue, which shall be filed and recorded with the other papers of the case, unless
1238 there is pending against the applicant an action (including any direct appeal of such
1239 action, ~~or~~ an appeal based on a petition for certiorari jurisdiction, or a petition for
1240 review), of which the Secretary of State has notice, in a court of competent
1241 jurisdiction in which it is alleged that the applicant is liable for damages under this
1242 chapter, in which case the Secretary of State shall hold or dispose of such residue in
1243 accordance with the provisions of this subsection relating to the holding or disposing
1244 of the entire deposit. If more than one final judgment is rendered against the
1245 applicant for violation of this chapter, the judgment creditors shall be paid in full
1246 from such deposit or residue thereof, to the extent the deposit or residue is sufficient
1247 to pay the judgments, in the order in which the judgment creditors petitioned the
1248 Superior Court of Fulton County.

1249 SECTION 3-36

1250 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
1251 revising Code Section 44-7-56, as follows:

1252 Any judgment by the trial court shall be appealable pursuant to Chapters ~~2~~, 3, 6, and
1253 7 of Title 5, ~~provided that any such appeal shall be filed within seven days of the~~
1254 ~~date such judgment was entered and provided, further, that,~~ as follows:

1255 (1) A copy of the petition for review filed in the reviewing court or the notice of
1256 appeal¹²⁸ shall be filed with the clerk of the trial court within seven days after
1257 the date judgment was entered in the trial court.

1258 (2) The clerk shall immediately notify the trial judge of the petition for review
1259 or notice of appeal and the trial judge may, within 15 days after a copy of the
1260 petition for review or the notice of appeal is filed in the trial court, supplement
1261 the record with findings of fact and conclusions of law which will be considered
1262 as a part of the order of the judge in that case.

1263 (3) If the judgment of the trial court is against the tenant and the tenant appeals
1264 this judgment, the tenant shall be required to notify the trial court of his or her
1265 appeal and to pay into the registry of the court all sums found by the trial court
1266 to be due for rent in order to remain in possession of the premises.

1267 (4) The tenant shall also be required to pay all future rent as it becomes due into
1268 the registry of the trial court pursuant to paragraph (1) of subsection (a) of Code
1269 Section 44-7-54 until the issue has been finally determined on appeal.

1270 SECTION 3-37

1271 Said title is further amended by revising paragraph (8) of Code Section 44-7-115, as
1272 follows:

1273 (8) Any order issued by the magistrate court shall be appealable pursuant to ~~Article~~
1274 ~~2 of~~ Chapter 3 of Title 5, provided that any such appeal shall be filed within seven
1275 days ~~of~~ after the date such order was entered and provided, further, that, after the
1276 ~~notice of appeal~~ petition for review is filed with the clerk of the ~~trial~~ reviewing court,
1277 the clerk of the reviewing court shall immediately notify the magistrate court of the
1278 ~~notice of appeal~~ petition for review. If the order of the magistrate court is against the
1279 responsible party and the responsible party appeals such order, the responsible party
1280 shall be required to pay into the registry of the court all sums found by the magistrate
1281 court to be due in order to remain in possession of the mobile home. The responsible
1282 party shall also be required to pay all future rent into the registry of the court as it
1283 becomes due in such amounts specified in paragraph (2) of this Code section until
1284 the issue has been finally determined on appeal.

1285 SECTION 3-38

1286 Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions,
1287 is amended by revising subsection (a) of Code Section 47-14-51, as follows:

1288 (a) In addition to all other legal costs, the sum of \$1.00 shall be charged and collected
1289 in each civil suit, action, case, or proceeding filed in the superior courts or in any
1290 other court of this state in which a clerk eligible for membership in this retirement
1291 fund is clerk, including, without limiting the generality of the foregoing, all
1292 adoptions, charters, ~~certiorari~~ petitions for review, applications by a personal
1293 representative for leave to sell or reinvest, trade name registrations, applications for
1294 change of name, and all other proceedings of a civil nature, filed in the superior
1295 courts or other such courts.

1296 SECTION 3-39

1297 Said title is further amended by revising subsection (e) of Code Section 47-14-51, as
1298 follows:

1299 (e) The sum of \$1.00 shall be paid out of the fees charged and collected pursuant to
1300 Title 15 in each civil suit, action, case, or proceeding filed in the superior courts or
1301 in any other court of this state in which a clerk eligible for membership in this
1302 retirement fund is clerk and shall be remitted to the board as provided in subsection
1303 (c) of this Code section. Such fees shall include, without limiting the generality of
1304 the foregoing, all adoptions, charters, ~~certiorari~~ petitions for review, applications by
1305 a personal representative for leave to sell or reinvest, trade name registrations,

1306 applications for change of name, and all other proceedings of a civil nature filed in
1307 the superior courts or other such courts.

1308 **SECTION 3-40**

1309 Said title is further amended by revising subsections (a) and (b) of Code Section 47-16-
1310 61, as follows:

1311 (a) In addition to all other legal costs, the sum of \$1.00 shall be charged and collected
1312 in each civil action, case, or proceeding, including, without limiting the generality
1313 of the foregoing, all adoptions, charters, ~~certiorari~~ petitions for review, applications
1314 by personal representative for leave to sell or invest, trade name registrations,
1315 applications for change of name, and all other proceedings of a civil nature filed in
1316 the superior courts. The clerks of the superior courts shall collect such fees, and the
1317 fees so collected shall be remitted to the board quarterly or at such other time as the
1318 board may provide. It shall be the duty of the clerks of the superior courts to keep
1319 accurate records of the amounts due the board under this subsection, and such
1320 records may be audited by the board at any time. The sums remitted to the board
1321 under this subsection shall be used only for the purposes provided for in this chapter.

1322 (b) In addition to all other legal costs, the sum of \$1.00 shall be charged and collected
1323 in each civil action, case, or proceeding, including, without limiting the generality
1324 of the foregoing, all adoptions, charters, ~~certiorari~~ petitions for review, applications
1325 by personal representative for leave to sell or invest, trade name registrations,
1326 applications for change of name, and all other proceedings of a civil nature filed in
1327 the state courts and magistrate courts of this state in which the sheriff of the superior
1328 court also fulfills the function as sheriff of such inferior court. The clerks of such
1329 state courts and magistrate courts shall collect such fees, and the fees so collected
1330 shall be remitted to the board quarterly or at such other time as the board may
1331 provide. It shall be the duty of the clerks of such state courts and magistrate courts
1332 to keep accurate records of the amounts due the board under this subsection, and
1333 such records may be audited by the board at any time. The sums remitted to the
1334 board under this subsection shall be used only for the purposes provided for in this
1335 chapter.

1336 **SECTION 3-41**

1337 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
1338 amended by revising paragraph (2) of subsection (g) of Code Section 48-5-311, as
1339 follows:

1340 (g) Appeals to the superior court.

1341 (1) The taxpayer or the county board of tax assessors may appeal decisions of
1342 the county board of equalization, hearing officer, or arbitrator, as applicable, to
1343 the superior court of the county in which the property lies. By mutual written
1344 agreement, the taxpayer and the county board of tax assessors may waive an
1345 appeal to the county board of equalization and initiate an appeal under this
1346 subsection. A county board of tax assessors shall not appeal a decision of the
1347 county board of equalization, arbitrator, or hearing officer, as applicable,
1348 changing an assessment by 20 percent or less unless the board of tax assessors
1349 gives the county governing authority a written notice of its intention to appeal,
1350 and, within ten days of receipt of the notice, the county governing authority by
1351 majority vote does not prohibit the appeal. In the case of a joint city-county
1352 board of tax assessors, such notice shall be given to the city and county
1353 governing authorities, either of which may prohibit the appeal by majority vote
1354 within the allowed period of time.

1355 (2) An appeal by the taxpayer as provided in paragraph (1) of this subsection
1356 shall be effected by ~~e-mailing, if the county board of tax assessors has adopted~~
1357 ~~a written policy consenting to electronic service, or by mailing to or filing with~~
1358 ~~the county board of tax assessors a written notice of appeal~~servicing a copy of a
1359 petition for review filed in superior court upon a county board of tax assessors.
1360 An appeal by the county board of tax assessors shall be effected by giving notice
1361 ~~to~~servicing the taxpayer with a copy of petition for review filed in superior court.
1362 The ~~notice to~~petition for review served on the taxpayer shall be dated and shall
1363 ~~contain the name and the last known address of the taxpayer. The notice of~~
1364 ~~appeal~~petition for review shall specifically state the grounds for appeal. The
1365 ~~notice~~petition for review shall be served~~mailed or filed~~ within 30 days from the
1366 date on which the decision of the county board of equalization, hearing officer,
1367 or arbitrator is delivered pursuant to subparagraph (e)(6)(D), paragraph (7) of
1368 subsection (e.1), or division (f)(3)(C)(ix) of this Code section. Within 45 days
1369 of receipt of a taxpayer's ~~notice of appeal~~petition for review and before
1370 certification of the appeal to the superior court, the county board of tax assessors
1371 shall send to the taxpayer notice that a settlement conference, in which the
1372 county board of tax assessors and the taxpayer shall confer in good faith, will
1373 be held at a specified date and time which shall be no later than 30 days from
1374 the notice of the settlement conference, and notice of the amount of the filing
1375 fee, if any, required by the clerk of the superior court. The taxpayer may
1376 exercise a one-time option to reschedule the settlement conference to a different
1377 date and time acceptable to the taxpayer during normal business hours. After a

1378 settlement conference has convened, the parties may agree to continue the
1379 settlement conference to a later date. If at the end of the 45 day review period
1380 the county board of tax assessors elects not to hold a settlement conference, then
1381 the appeal shall terminate and the taxpayer's stated value shall be entered in the
1382 records of the board of tax assessors as the fair market value for the year under
1383 appeal and the provisions of subsection (c) of Code Section 48-5-299 shall apply
1384 to such value. If the taxpayer chooses not to participate in the settlement
1385 conference, he or she may not seek and shall not be awarded fees and costs at
1386 such time when the appeal is settled in superior court. If at the conclusion of
1387 the settlement conference the parties reach an agreement, the settlement value
1388 shall be entered in the records of the county board of tax assessors as the fair
1389 market value for the tax year under appeal and the provisions of subsection (c)
1390 of Code Section 48-5-299 shall apply to such value. If at the conclusion of the
1391 settlement conference the parties cannot reach an agreement, then written notice
1392 shall be provided to the taxpayer that the filing fees must be paid by the taxpayer
1393 to the clerk of the superior court within 20 days of the date of the conference,
1394 with a copy of the check delivered to the county board of tax assessors.
1395 Notwithstanding any other provision of law to the contrary, the amount of the
1396 filing fee for an appeal under this subsection shall be \$25.00. An appeal under
1397 this subsection shall not be subject to any other fees or additional costs otherwise
1398 required under any provision of Title 15 or under any other provision of law.
1399 Immediately following payment of such \$25.00 filing fee by the taxpayer to the
1400 clerk of the superior court, the clerk shall remit the proceeds thereof to the
1401 governing authority of the county which shall deposit the proceeds into the
1402 general fund of the county. Within 30 days of receipt of proof of payment to
1403 the clerk of the superior court, the county board of tax assessors shall certify to
1404 the clerk of the superior court the ~~notice of appeal~~ petition for review and any
1405 other papers specified by the person appealing including, but not limited to, the
1406 staff information from the file used by the county board of tax assessors, the
1407 county board of equalization, the hearing officer, or the arbitrator. All papers
1408 and information certified to the clerk shall become a part of the record on appeal
1409 to the superior court. At the time of certification of the appeal, the county board
1410 of tax assessors shall serve the taxpayer and his or her attorney of record, if any,
1411 with a copy of the ~~notice of appeal~~ petition for review and with the civil action
1412 file number assigned to the appeal. Such service shall be effected in accordance
1413 with subsection (b) of Code Section 9-11-5.¹²⁹ No discovery, motions, or other

1414 pleadings may be filed by the county board of tax assessors in the appeal until
1415 such service has been made.

1416 **PART IV**
1417 **SECTION 4-1**

1418 This Act shall become effective on the first day of July in the calendar year following the
1419 year it is approved by the Governor or becomes law without such approval.

1420 **PART V**
1421 **SECTION 5-1**

1422 To the extent that the Georgia Supreme Court's ruling in Long v. Greenwood Homes,
1423 Inc., 285 Ga. 560, 679 S.E.2d 712 (2009) and any other decisions are not consistent with
1424 the provisions of this Act, these decisions are contrary to the General Assembly's intent
1425 and shall be deemed overruled on the effective date of this Act.¹³⁰

1426 **PART VI**
1427 **SECTION 6-1**

1428 This Act shall not apply to any appeal pending in a reviewing superior or state court
1429 before its effective date.

1430 **PART VII**
1431 **SECTION 7-1**

1432 All laws and parts of laws in conflict with this Act are repealed.

¹ Existing OCGA Chapters 3 and 4 of Title 5 are completely repealed and replaced with a new Chapter 3. Chapter 4 is reserved.

² Codifies public policy concerns articulated by the dissent in *Long v. Greenwood Homes, Inc.*, 285 Ga. 560, 563 (679 SE2d 712, 715) (2009) (“The holding of the majority would throw any decision by a magistrate court into uncertainty. A party who wished to avoid an adverse ruling of the magistrate court could simply appeal that ruling, dismiss the appeal, and effectively vacate the magistrate’s decision.”). This subsection works in concert with proposed Code Section 5-3-19 and Section 5-1 of the Act to do so.

³ Codifying “judicial in nature” from the second element of quasi-judicial act in *Hous. Auth. of City of Augusta v. Gould*, 305 Ga. 545, 551 (826 SE2d 107, 111-112) (2019). Subparagraph (1) (C) here codifies an element from *State v. Int’l Keystone Knights of the Ku Klux Klan, Inc.*, 299 Ga. 392, 401-405 (788 SE2d 455, 463-466) (2016) (“Determinations of an adjudicative nature . . . are immediate” and “specific in application”, while “determinations of a legislative nature are prospective” and “general in application”).

⁴ “[A] ‘decision’ is a determination of an adjudicative nature, but the precedents of this Court . . . foreclose the idea that a ‘decision’ always must be characterized by formal adjudicative procedures.” *Int’l Keystone Knights*, 299 Ga. at 399-400 (788 SE2d at 462).

⁵ *Int’l Keystone Knights* uses the term “adjudicative in nature” (299 Ga. at 401-405 (788 SE2d at 463-466)), while *Gould*, uses “judicial in nature” (305 Ga. at 551 (826 SE2d at 111-112)). Incorporating both here.

⁶ In *Gould*, the Court held that a judicial or quasi-judicial act includes “the opportunity afforded to present evidence under *judicial forms of procedure*.” 305 Ga. at 551 (826 SE2d at 111-112) (citing *South View Cemetery Ass’n v. Hailey*, 199 Ga. 478, 481 (34 SE2d 863, 866) (1945) (emphasis supplied)). However, the *Gould* Court did not define “judicial forms of procedure.” In *Goddard v. City of Albany*, the Court analogizes the “right . . . to demand a trial in accordance with judicial procedure” to: 1) notice; 2) a hearing; and 3) the opportunity to present evidence under “judicial forms of procedure.” 285 Ga. 882, 883 (684 SE2d 635, 638) (2009). *Starnes v. Fulton Cty. Sch. Dist.* suggests a “trial” in this context may be a “hearing.” 233 Ga. App. 182, 184 (503 SE2d 665, 667) (1998) (“Starnes was afforded the right to a *hearing* “in accordance with judicial procedure”) (emphasis supplied). *Tamiami Trail Tours, Inc. v. Georgia Pub. Serv. Comm’n* frames judicial forms of procedure as “the *protection* afforded by judicial forms of procedure.” 213 Ga. 418, 428-29 (99 SE2d 225, 233) (1957) (emphasis supplied). The next endnote explores such protections.

⁷ “The principles of due process ‘extend to every proceeding . . . judicial or administrative or executive in its nature’ at which a party may be deprived of life, liberty, or property.” *Cobb Cty. Sch. Dist. v. Barker*, 271 Ga. 35, 37 (518 SE2d 126, 129) (1999). *Grovenstein v. Effingham Cty.* states that “[d]ue process in administrative proceedings of a judicial nature has been said generally to be conformity to fair practices of Anglo-Saxon jurisprudence [cit.] which is usually equated with adequate notice and a fair hearing, [cit.] Although strict adherence to the common-law rules of evidence at the hearing is not required, [cit.] the parties must generally be allowed an opportunity to know the claims of the opposing party, [cit.], to present evidence to support their contentions, [cit.] and to cross-examine witnesses for the other side [cit.]” 262 Ga. 45, 48 (414 SE2d 207, 210) (1992).

⁸ Includes “if any” here because examination and cross-examination are at issue only in cases where a witness provides testimony. See *Jackson v. Spalding Cty.*, 265 Ga. 792, 795 (462 SE2d 361, 364) (1995) (“Since the property owners never sought to present sworn testimony or question other speakers, their argument that they were denied the

opportunity to cross-examine witnesses is without merit”), disapproved on other grounds by *City of Cumming v. Flowers*, 300 Ga. 820 (797 SE2d 846) (2017).

⁹ Codifying the three elements of a “quasi-judicial” act from *Gould*, 305 Ga. at 551 (826 SE2d at 111-112).

¹⁰ Codifying the first element of “quasi-judicial” from *Gould*, 305 Ga. at 551 (826 SE2d at 111-112) (citing *South View* 199 Ga. at 481 (34 SE2d at 866)).

¹¹ Codifying the second element of “quasi-judicial” from *Gould*, 305 Ga. at 551 (826 SE2d at 111-112) (citing *Jackson*, 265 Ga. at 794 (462 SE2d at 363)). See proposed paragraph (1) of this proposed Code section for the definition of “judicial in nature” from *Gould*. *Id.*

¹² Codifying the third element of “quasi-judicial” from *Gould*, 305 Ga. at 551 (826 SE2d at 111-112) (citing *Atlanta v. Blackman Health Resort*, 153 Ga. 499, 508 (113 SE 545) (1922)).

¹³ Codifying the list of potential actors from *South View*, 199 Ga. at 480 (34 SE2d at 866) (cited in *Gould*, 305 Ga. at 550 (826 SE2d at 111)).

¹⁴ Ensures that all judicial and quasi-judicial actors inferior in authority to the superior and state courts are under the appellate jurisdiction of this chapter unless excluded by subsections (b) or (c) of proposed Code Section 5-3-4.

¹⁵ “Certiorari is not an appropriate remedy to review or obtain relief from the judgment, decision or action of an inferior judicatory or body rendered in the exercise of legislative, executive, or ministerial functions, as opposed to judicial or quasi-judicial powers.” *Presnell v. McCollum*, 112 Ga. App. 579 (145 SE2d 770) (1965). See *Flowers*, 300 Ga. at 827 (797 SE2d at 852) (“[F]or generations this Court has held that judicial and quasi-judicial decisions made by city and county governing authorities may be appealed to the superior court by certiorari”). This legislation would replace certiorari with a petition for review where a limited, certiorari-like review is the default standard of review unless a de novo proceeding is required by law. See proposed Code Section 5-3-5 for details regarding the standard of review.

¹⁶ The goal of this paragraph is to draw in administrative decisions and judgments that traverse multiple levels of appeal before getting to superior or state court. Also, some statutes require that all administrative remedies be exhausted before judicial review is available, e.g., existing OCGA §§ 40-5-67.1 (h); 40-5-64 (h); and 40-5-64.1 (g), which refer to the Administrative Procedure Act, which in turn states in existing OCGA § 50-13-19 (a) that “[a]ny person who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review under this chapter.” This paragraph also works in concert with proposed Code Section 5-3-4 (a) to prescribe the jurisdiction of the reviewing superior or state court.

¹⁷ A “petition for review” will effectively replace all other requests for superior or state court appellate review listed here. This paragraph works in tandem with proposed Code Section 5-3-2 (b).

¹⁸ Existing OCGA § 1-2-1 identifies two classes of persons under Georgia law: natural and artificial. See also paragraph (13) of this proposed Code section.

¹⁹ Existing term “opposite party” (a source of confusion under current law) is changed to “opposing party.” See, e.g., *City of Sandy Springs Bd. of Appeals v. Traton Homes, LLC*, 341 Ga. App. 551, 557 (801 SE2d 599, 605) (2017), cert. denied (Dec. 11, 2017) ([T]he “opposite party” is the “party to a dispute”).

²⁰ Works in concert with proposed Code Section 5-3-4 (b) (7) and (c) (7).

²¹ These courts have a direct appeal to the appellate courts under current law.

²² See existing OCGA § 5-6-34 (a).

²³ Preserves existing OCGA §§ 5-3-2 (b) and 5-4-1 (b). Existing OCGA Article 6 of Chapter 9 of Title 15 referenced here carves out a definition for certain probate courts in larger counties. This definition is incorporated by reference in paragraph (11) of proposed Code Section 5-3-3. Article 6 probate courts have expanded jurisdiction and a direct appeal to the appellate courts per OCGA § 15-9-123. Also consistent with GA R UNIF PROB CT Rule 2.7.

²⁴ Preserves existing OCGA § 5-3-2 (a) (“An appeal shall lie to the superior court from any decision made by the probate court, except an order appointing a temporary administrator”).

²⁵ These courts have a direct appeal to the appellate courts under current law.

²⁶ See existing OCGA § 5-6-34 (a).

²⁷ Preserves existing OCGA §§ 5-3-2 (b) and 5-4-1 (b). Existing OCGA Article 6 of Chapter 9 of Title 15 referenced here carves out a definition for certain probate courts in larger counties. This definition is incorporated by reference in paragraph (11) of proposed Code Section 5-3-3. Article 6 probate courts have expanded jurisdiction and a direct appeal to the appellate courts per existing OCGA § 15-9-123. Also consistent with GA R UNIF PROB CT Rule 2.7.

²⁸ Preserves existing OCGA § 5-3-2 (a) (“An appeal shall lie to the superior court from any decision made by the probate court, except an order appointing a temporary administrator”).

²⁹ This exception is necessary because a municipal ordinance may prescribe certain procedures for bond forfeitures under proposed Code Section 5-3-17 (g).

³⁰ Codifies *City of Cumming v. Flowers*, 300 Ga. 820, 830 (797 SE2d 846, 855) (2017) (Local ordinances cannot create means of appeal to the superior court, including direct appeals, that are not authorized by statute).

³¹ This proposed Code section seeks to establish a limited standard of review (analogous to certiorari review) as the default and de novo review (analogous to a notice of appeal) only when specified in statute. It roughly corresponds to existing OCGA §§ 5-3-29; 5-4-1; 5-4-12.

³² E.g., existing OCGA § 32-3-11 (Restricting the power of a superior court judge to review and set aside, vacate, and annul a declaration of taking).

³³ Proposed subsection (a) is analogous to certiorari review under existing OCGA § 5-4-1 and adapted from existing OCGA § 5-4-12 (b). The process established in this proposed Code section is generally consistent with the following: “An appeal from an inferior to a superior court for another trial as a de novo investigation was unknown to the common law. Such an appeal . . . is of statutory origin and the mode of procedure is prescribed by statute.” *State Highway Bd. v. Long*, 61 Ga. App. 173 (6 SE2d 130) (1939).

³⁴ “Review under [existing] OCGA § 5-4-1 is limited to matters raised in the record of the hearing below.” *Baxter v. Fulton-DeKalb Hosp. Auth.*, 764 F. Supp. 1510, 1520 (N.D. Ga. 1991) (citing *Willis v. Jackson*, 148 Ga. App. 432 (251 SE2d 341) (1978)). Subsection (a) is consistent with existing OCGA § 5-4-1 in this regard.

³⁵ “[Q]uestions of fact and credibility must be accepted unless clearly erroneous.” *Lester v. State*, 226 Ga. App. 373, 375 (487 SE2d 25, 28) (1997).

³⁶ “[I]t is settled law that our role as a court of review is a limited one. [cit.] Under our precedents, we must accept the factual findings of the trial court unless they are clearly erroneous [cit.] and we must accept the ultimate conclusion of the trial court unless it amounts to an abuse of discretion, even though we might have reached a different conclusion were the issue committed to our discretion. [cit.]” *State v. Buckner*, 292 Ga. 390, 391 (738 SE2d 65, 68) (2013). The phrase ‘clearly erroneous’ is in the Civil Practice Act, existing OCGA § 9-11-52 (a), and in the Federal Rules of Civil Procedure, upon which the Georgia Civil Practice Act is based. Fed. R. Civ. P. 52 (a) (6). Justice Hall dissented from *Hall v. Ault*, arguing that the “clearly erroneous” and “any evidence” standards are different from one another, that review under the clearly-erroneous standard is “broader.” “The United States Supreme Court has established the meaning of the ‘clearly erroneous’ standard: ‘A finding is ‘clearly erroneous’ when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.’” *Hall v. Ault*, 240 Ga. 585, 586 (242 SE2d 101, 103) (1978) (Hall, J., dissenting), citing *United States v. United States Gypsum Co.*, 333 U.S. 364, 395 (68 SCt 525, 542, 92 LE 746) (1948).

³⁷ See, e.g., *Johnson v. State*, 300 Ga. 252, 259 (794 SE2d 60, 66) (2016) (“[T]rial scheduling and requests for continuances are addressed to *the sound discretion of the trial court*, and this Court will not interfere unless there was a clear abuse of discretion”). (Emphasis supplied).

³⁸ “[A]n appellate court determines evidence sufficiency.” *Lester*, 226 Ga. App. at 376 (487 SE2d at 29).

³⁹ “The standard of review for a question of law on appeal is de novo.” *Clark v. Clark*, 293 Ga. App. 309, 309 (667 SE2d 103, 104) (2008).

⁴⁰ De novo proceedings are required by statute in certain types of appeals, e.g., existing OCGA § 14-2-126 (appeal of a decision by the Secretary of State to refuse to file a document); OCGA § 36-74-28 (appeal of a decision by a local government code enforcement board); and OCGA § 40-5-66 (appeal of certain decisions by the Commissioner of Driver Services). De novo proceedings are prohibited in certain other types of cases, e.g., existing OCGA § 40-13-28 (convictions for a traffic offense); OCGA § 20-2-1160 (local school board decisions); and OCGA § 45-20-9 (state personnel board decisions).

⁴¹ Preserves existing OCGA § 5-4-11.

⁴² Preserves existing OCGA § 5-3-30.

⁴³ Adapted and expanded from existing OCGA §§ 5-4-6 and 5-6-32.

⁴⁴ Timeline consistent with existing OCGA §§ 5-3-20 (a) and 5-4-6 (a).

⁴⁵ Consistent with existing OCGA § 5-3-20 (b); see *Chadwick v. Gwinnett County*, 257 Ga. 59 (354 SE2d 420) (1987) (Date county commission signed initial document reducing to writing oral denial of request to rezone piece of property, rather than date applicant received official notice of decision through mail, commenced running of 30-day period for filing appeal from commission’s decision).

⁴⁶ Modeled after the reference to “parties” in existing OCGA § 5-6-37 (“All parties to the proceedings in the lower court shall be parties on appeal”).

⁴⁷ This proposed Code section seeks to address the issue of judges being designated a “respondent” or “opposite party” under the existing process. See *Hudson v. Watkins*, 225 Ga. App. 455, 456 (484 SE2d 24, 24-26) (1997) (“The tribunal whose decision is being reviewed, i.e., the respondent, is not, however, the “opposite party” referred to in [existing] OCGA § 5-4-6 . . . In the case of certiorari from a police or mayor’s court, the opposite party is the municipality”).

⁴⁸ E.g., a petition for judicial review under the Administrative Procedure Act must state: 1) the nature of the petitioner’s interest; 2) the facts showing that the petitioner is aggrieved by the decision; and 3) the ground upon which the petitioner contends the agency decision should be reversed or modified.

⁴⁹ Analogous to the suggested format for a notice of appeal in existing OCGA § 5-3-21.

⁵⁰ Analogous to existing OCGA § 5-6-43 (c). Works in concert with proposed Code Section 5-3-15 (b).

⁵¹ Suggesting that the petitioner should provide an e-mail address encourages e-filing.

⁵² Preserves existing OCGA § 5-4-6 (b).

⁵³ Adapted and expanded from existing OCGA §§ 5-4-6 and 5-6-32.

⁵⁴ The use of the term “response” to a “petition” is consistent with the terminology used in Ga. Sup. Ct. R. 42.

⁵⁵ Consistent with existing OCGA § 9-11-12 (a) of the Civil Practice Act.

⁵⁶ Preserves existing OCGA § 5-4-7.

⁵⁷ Adapted from existing OCGA § 9-11-12 (b) of the Civil Practice Act.

⁵⁸ Adapted from existing OCGA § 9-11-12 (a) of the Civil Practice Act

⁵⁹ Preserves existing OCGA § 5-4-7.

⁶⁰ Adapted from existing OCGA § 9-11-12 (b) of the Civil Practice Act

⁶¹ Adapted from existing OCGA § 9-11-15 (a) of the Civil Practice Act.

⁶² Adapted and clarified existing OCGA § 5-4-7.

⁶³ Preserves existing OCGA § 5-3-28 (b).

⁶⁴ Preserves part two of existing OCGA § 5-3-21 (b).

⁶⁵ Preserves existing OCGA § 5-3-4 (almost verbatim).

⁶⁶ Preserves existing OCGA § 5-3-5 (almost verbatim).

⁶⁷ Preserves existing OCGA § 5-3-30 (b).

⁶⁸ E.g., existing OCGA § 48-5-311 (“[S]ervice shall be effected in accordance with subsection (b) of Code Section 9-11-5”).

⁶⁹ Adapted from existing OCGA §§ 5-6-32 and 17-1-1.

⁷⁰ E.g., existing OCGA § 36-1-5 (“In all cases in which a county is a party defendant, service shall be sufficient if perfected upon a majority of the commissioners, in those counties in which the affairs of the county are committed to a county commissioner or a board of county commissioners”).

⁷¹ Definition of “perfected” here consistent with Black’s Law Dictionary (11th ed. 2019). Defined to assist self-represented litigants with the legal terminology used.

⁷² Proposed subsections (b)-(f) are adapted from OCGA § 9-11-5 (f).

⁷³ “Appellant has the burden of showing error which has harmed him, and such error must be shown by the record [cit.]” *Ward v. State*, 188 Ga. App. 372, 373 (373 SE2d 65, 68) (1988). “It is a sound rule of appellate practice that the burden is always on the appellant in asserting error to show it affirmatively by the record.” *Westmoreland v. State*, 287 Ga. 688, 696 (699 SE2d 13) (2010) (citations and punctuation omitted).

⁷⁴ Adapted from existing OCGA § 9-11-41 (b).

⁷⁵ *Id.*

⁷⁶ Preserves existing OCGA §§ 5-3-27 and 5-4-10.

⁷⁷ Preserves existing OCGA § 5-4-7.

⁷⁸ Various types of cases have different rules for venue under Ga. Const. of 1983, Art. VI, Sec. II, so this language provides for that flexibility. Corresponds to existing OCGA § 5-4-13.

⁷⁹ This proposed Code section is an adaptation of existing OCGA § 5-6-41. Great care was taken to be faithful to the original while adapting it for our purposes in plain language.

⁸⁰ Analogous to existing OCGA § 5-6-41 (a)-(c).

⁸¹ Analogous to existing OCGA Code § 5-6-41 (c), which provides that “[i]n civil cases, the trial court may require the parties to have the proceedings and evidence reported by a court reporter with the costs to be borne equally between them or, if it is determined that either or both of the parties are financially unable to pay the costs of reporting or transcribing, the court in its discretion may authorize the trial of the case to go unreported. Therefore, . . . [cit.] there is no law requiring the testimony adduced at a civil trial to be reported.” *Moore v. Ctr. Court Sports & Fitness, LLC*, 289 Ga. App. 596, 599 (657 S.E.2d 548, 551) (2008).

⁸² *Id.*

⁸³ Analogous to existing OCGA § 5-6-41 (j).

⁸⁴ Analogous to existing OCGA § 5-6-41 (d).

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ Analogous to existing OCGA § 5-6-41 (e).

⁸⁹ *Id.*

⁹⁰ Analogous to existing OCGA § 5-6-41 (f).

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ Analogous to existing OCGA § 5-6-41 (g).

⁹⁵ Analogous to existing OCGA § 5-6-41 (h).

⁹⁶ Analogous to existing OCGA § 5-6-41 (i).

⁹⁷ Adapted from existing OCGA § 5-3-28.

⁹⁸ *Id.*

⁹⁹ Adapted from existing OCGA § 5-6-43 (c) (“Where a defendant in a criminal case is confined in jail pending appeal, it shall be the duty of the clerk to state that fact in his

certificate; and it shall be the duty of the appellate court to expedite disposition of the case”).

¹⁰⁰ Preserves existing OCGA § 5-3-22 (a); also codifies *Fain v. Fain*, 179 Ga. App. 285 (346 SE2d 96) (1986).

¹⁰¹ E.g., existing OCGA § 40-5-66 (“The person filing the appeal [of any decision rendered by the Department of Driver Services] shall not be required to . . . to pay the costs in advance”).

¹⁰² Per Ga. Appellate Practice § 5:18, “[t]he payment of costs provision is inapplicable to [a writ of certiorari in] a criminal case.” (citing *Ellett v. City of College Park*, 233 Ga. 858 (213 SE2d 700) (1975) (violation of municipal ordinance); *Brown v. State*, 124 Ga. 411 (52 SE 745) (1905) (unspecified misdemeanor).

¹⁰³ *Fain*, 179 Ga. App. at 286 (346 SE2d at 97).

¹⁰⁴ Preserves existing OCGA § 5-3-24.

¹⁰⁵ Preserves existing OCGA § 5-4-5 (a) (payment of costs certificate requirement).

¹⁰⁶ Adapted and greatly expanded existing OCGA §§ 5-4-5; 5-4-19; and 5-4-20.

¹⁰⁷ Some Code sections prohibit an appeal acting as supersedeas, e.g., existing OCGA § 40-5-66, which states that “no appeal [of any decision rendered by the Department of Driver Services] shall act as a supersedeas of any orders or acts of the department;” as well as existing OCGA §§ 52-7-71 and 52-7-72.1.

¹⁰⁸ Adapted from existing OCGA § 5-3-22 (b) and generally preserves existing OCGA § 5-4-19.

¹⁰⁹ *Id.*

¹¹⁰ E.g., existing OCGA § 40-5-66, which states “[t]he person filing the appeal [of any decision rendered by the Department of Driver Services] shall not be required to post any bond;” as well as existing OCGA §§ 52-7-71 and 52-7-72.1.

¹¹¹ Preserves the indigency exception from existing OCGA § 5-3-22.

¹¹² This subsection is meant to address concerns regarding judges frustrating reviews by setting high bonds.

¹¹³ Consistent with existing OCGA § 5-4-20 (a)

¹¹⁴ Preserves part of existing OCGA § 5-4-5 (b), which states: “The person authorized to receive bond and security may compel the security tendered to swear upon oath the means by which he can fulfill the bond obligation. Such action shall exonerate from liability the person receiving the bond and security.”

¹¹⁵ Existing OCGA § 17-6-1, which was amended by S.B. 407 (2018), generally provides for which offenses are bailable and sets forth the requirements for bail hearings and conditions, where applicable.

¹¹⁶ Preserves existing OCGA § 5-3-23.

¹¹⁷ Preserves existing OCGA § 5-4-10.

¹¹⁸ Preserves existing OCGA § 5-3-6, which grants a right of subrogation against the surety’s principal. See *Nat’l Sur. Co. of New York v. White*, 21 Ga. App. 471 (94 SE 589) (1917) (“[W]here [a surety] pays the debt of his principal, . . . his sole recourse is against his principal”).

¹¹⁹ Mostly verbatim preservation of existing OCGA § 5-3-25.

¹²⁰ Adapted and expanded from existing OCGA § 5-4-14.

¹²¹ The primary intent of this proposed Code section is to overrule *Long v. Greenwood Homes, Inc.*, 285 Ga. 560 (679 SE2d 712) (2009). It would work in concert with proposed Code Section 5-3-2 (c) and Section 5-1 of the Act to do so.

¹²² Preserves existing OCGA § 5-3-7.

¹²³ This proposed Code section would generally preserve existing OCGA §§ 5-3-31 (capped at 25 percent) and 5-4-18 (capped at 20 percent). The Subcommittee voted to retain the lower 20 percent cap in existing OCGA § 5-4-18.

¹²⁴ Codifies *Osofsky v. Bd. of Mayor & Comm’rs, City of Avondale Estates*, 237 Ga. App. 404, 404 (515 SE2d 413, 414) (1999) (“[Existing OCGA § 5-3-31] presumes a money award as a basis to calculate the frivolous appeal damages. So[,] it is applicable ‘only to cases of appeal wherein the jury returns a verdict for a sum of money.’”)

¹²⁵ Preserves existing OCGA § 5-4-16.

¹²⁶ Preserves existing OCGA § 5-4-17.

¹²⁷ *Id.*

¹²⁸ Retained “notice of appeal” reference here because it is still an option under Chapter 6 of Title 5.

¹²⁹ A carve out for this type of provision requiring a specific manner of service is included in proposed Code Section 5-3-10 (a) (“*Except as otherwise provided by law, service of process under this chapter shall be made in the following manner:*”). (Emphasis supplied).

¹³⁰ The primary intent of this section is to overrule *Long v. Greenwood Homes, Inc.*, 285 Ga. 560 (679 SE2d 712) (2009) in particular and any other decisions that run contrary to the Act. This section of the Act works in concert with proposed Code Sections 5-3-2 (c) and 5-3-19 to do so.

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