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BANKING AND FINANCE Notice: Money Judgment Interest Rate

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NOTICE

TITLE 2: AGRICULTURE

HB 1217 (Act No. 777); Effective January 31, 1986; *Vidalia Onion: Sales Regulation*

The Act creates a new article, O.C.G.A. §§ 2-14-130—2-14-135, which defines the terms “Vidalia onion production area” and “Vidalia variety”. The Act provides for criminal and civil penalties for the selling, packaging, or labeling of any onion which fails to conform to these requisite definitions. However, the Act contains a grandfather provision which enables the Commissioner to grant variances to previous Georgia producers who do not meet the new definitions.

TITLE 3: ALCOHOLIC BEVERAGES

SB 376 (Act No. 1435); *Alcoholic Beverages: Consumption During Pregnancy: Posted Warning*

The Act creates O.C.G.A. § 3-1-5 which requires any establishment that sells alcoholic beverages for consumption on the premises to post a conspicuous sign that states: “Warning: Drinking alcoholic beverages during pregnancy can cause birth defects.” The Department of Revenue is responsible for providing the signs as well as establishing rules regarding their posting. Failure to post a sign required by this Code section is a misdemeanor.

TITLE 7: BANKING AND FINANCE

HB 1120 (Act No. 950); *Money Judgment Interest Rate*

The Act amends O.C.G.A. § 7-4-12 by providing that a judgment obtained in civil court on a written contract or other obligation which specifies the interest rate on the obligation shall bear interest at the specified rate. When the interest rate is not specified, the statutory interest rate of twelve percent per year will apply.

TITLE 10: COMMERCE AND TRADE

SB 415 (Act No. 1251); *Fuel Sales: Unlawful Practices: Punitive Damages*

The Act amends O.C.G.A. § 10-1-255 relating to civil actions for unlawful practices in the marketing of octane or cetane fuels under the "Below Cost Sales Act" to provide for punitive damages up to specified maximum amounts. Under prior law, O.C.G.A. § 10-1-255(b), a person who sustained a competitive injury from such unlawful trade practices was limited to recovery of actual or special damages including reasonable attorney fees and the cost of litigation.

HB 1282 (Act No. 1540); *Office Supply Transactions: Deceptive Practices*

The Act includes office supply transactions within the protections provided by the Fair Business Practices Act of 1975, and forbids false representations and substitutions by office suppliers. It amends O.C.G.A. §§ 10-1-392, 10-1-397, 10-1-399 and creates O.C.G.A. § 10-1-393.1.

TITLE 12: CONSERVATION AND NATURAL RESOURCES

HB 1835 (Act No. 1265); Effective March 26, 1986; *Lake Lanier Island Development Authority: Jurisdiction for Suit*

The Act amends O.C.G.A. § 12-3-341 by changing the venue for actions involving the Lake Lanier Islands Development Authority and granting exclusive jurisdiction to the Superior Court of Hall County. Prior law provided that such actions be brought in Fulton County.

TITLE 15: COURTS

HB 1227 (Act No. 1528); *Transcripts and Court Reporter Fees: Notice*

The Act amends O.C.G.A. § 15-5-21 to require the Georgia Judicial Council to give at least thirty days prior written notice of intent to adopt rules and regulations relating to transcripts and court reporter fees. This notice must include a copy of the proposed rule or regulation and must be provided to the chairpersons of the Judiciary Committee and the Special Judiciary Committee of the House and the Judiciary Committee and Judiciary and Constitutional Law Committee of the Senate. The validity of a Judicial Council rule or regulation promulgated after July 1, 1986, is subject to challenge for noncompliance with this section for up to two years after the effective date of the rule or regulation.

HB 1751 (Act No. 1222); *Inmates: On-site Court Hearings*

The Act amends O.C.G.A. § 15-6-17 by allowing a county in which a correctional institution or jail is located to conduct habeas corpus and nonjury proceedings by using one or more superior court judges and conducting the hearings in a suitable room at the county facility. Prior law allowed such proceedings at state correctional institutions only.

TITLE 16: CRIMES AND OFFENSES

HB 1158 (Act No. 1663); Effective April 11, 1986; *Controlled Substances: Change List*

The Act updates the lists of controlled substances and dangerous drugs named in O.C.G.A. §§ 16-13-25—16-13-29, and adds to the definition of “controlled substance” reference to drugs, substances or immediate precursors in Schedules I through V of 21 C.F.R. Part 1308. The Act also amends O.C.G.A. § 26-3-22 by requiring compliance with federal standards in manufacturing, processing, packaging, or holding drugs, with reference to the standards in 21 C.F.R. 210.

HB 1320 (Act No. 1406); *Obstructing Law Enforcement Officers in Their Duties*

The Act adds a new subsection (b) to O.C.G.A. § 16-10-24 which provides for felony punishment when a person “knowingly and wilfully resists, obstructs, or opposes any law enforcement officer, prison guard, correctional officer, probation supervisor, parole supervisor, or conservation ranger” in lawful performance of his duties by “offering or doing violence or threats of violence against law enforcement officers.” Intermediate felony punishment is available when the acts are more serious than the previously existing misdemeanor offense under O.C.G.A. § 16-10-24(a) but less serious than aggravated assault under O.C.G.A. § 16-5-21 (Supp. 1986).

TITLE 20: EDUCATION

SB 478 (Act No. 1211); *Employee Termination or Suspension: Due Process*

The Act amends O.C.G.A. § 20-2-940 to require local school boards to give notice by certified mail when discharging or suspending contractual employees for any action where notice may also be given by personal service. The Act also amends O.C.G.A. § 20-2-942 to require notice of intention to demote or not to renew a teacher's contract after the teacher has accepted four consecutive contracts. This notice must include a statement of the reasons for such demotion or nonrenewal and advise the employee of his or her right to a hearing. The time period to request a hearing is extended from fourteen to twenty days following receipt of the notice.

SB 416 (Act No. 963); *School Board Decisions on School Law: Notice and Appeal*

O.C.G.A. § 20-2-1160 provides that local school boards may sit as tribunals for decisions involving school law. The Act amends O.C.G.A. § 20-2-1160 to provide that a local school board decision shall be binding only if the parties involved are notified in writing of the decision and of the parties' right to appeal to the State Board of Education, together with a clear description of the procedure and requirements for doing so. The Act further provides that the State Board of Education must also give notification in writing of the right to appeal its decision to a superior court together with a clear description of the procedure and requirements for that appeal.

TITLE 31: HEALTH

SB 56 (Act No. 1460); Effective April 12, 1986; *Regulation and Construction of Hospitals*

O.C.G.A. § 31-7-75.1 provides that the proceeds from the sale of local public hospitals which are sold to "for profit" hospital corporations be placed in an irrevocable interest-bearing account to be used exclusively to pay for indigent medical care. If the amount in the fund is less than \$100,000, the principal may be used for indigent care. O.C.G.A. § 31-7-75.1(b) supplies a formula for determining equitable division of proceeds of sales involving more than one political subdivision. Pursuant to O.C.G.A. § 31-7-75.1(c), indigency is determined using the formula provided by O.C.G.A. § 31-8-43 (Supp. 1986). O.C.G.A. § 37-7-75.1(d) proscribes local law allowing proceeds to be used in any other manner.

HB 1420 (Act No. 1490); *Day Care Centers/Personal Care Homes: Employee Record Checks*

This Act amends paragraph (14) of O.C.G.A. § 31-7-250 and paragraph (16) of O.C.G.A. § 49-5-60 by authorizing the Department of Human Resources to establish records search fees. Prior law set a twelve dollar ceiling for such fees.

HB 1189 (Act No. 1589); *Operation of Bathhouses*

The Act adds a new subsection (a) to O.C.G.A. § 31-12-11 which prohibits the operation of bathhouses where illegal sexual activity is permitted by the owners, managers or employees. The Act further allows the Department of Human Resources and county boards of health to inspect any bathhouse and to obtain injunctive relief to prevent its operation if illegal activity is being conducted on its premises. A misdemeanor penalty is provided for the operation of such illegal establishments.

TITLE 32: HIGHWAYS, BRIDGES, AND FERRIES

HB 705 (Act No. 818); Effective March 12, 1986; *Department of Transportation: Contracts: One Bid Received*

The Act expands bidding procedures to be followed by the Department of Transportation in accepting or rejecting bids from contractors for construction contracts under O.C.G.A. § 32-2-69. In situations where only one bid is received for a particular contract, the Act allows the Department to accept the bid, using the Department's cost estimate as a basis for accepting or negotiating the bid. The Department may negotiate a fair price with the sole bidder if the bid price exceeds the Department's estimate. The Act also permits the Department to readvertise, perform the work, offer the job to the next lowest bidder or abandon the project if a bidder defaults on the contract.

TITLE 33: INSURANCE

HB 1393 (Act No. 1414); *Premium Finance Company: Insurance Cancellation Notice*

The Act amends O.C.G.A. § 33-22-13(c) to provide delivery as an alternative to mailing when a premium finance company is notifying the insurer of an insured's default.

TITLE 36: LOCAL GOVERNMENT

HB 618 (Act No. 1614); *Disclosure of Public Officials' Property Interest*

The Act creates O.C.G.A. §§ 36-67A-1—36-67A-4. O.C.G.A. §§ 36-67A-1 and 36-67A-2 provide for disclosure by local government officials of property interests which the official, members of the official's family, or business entities in which the official is involved may have when the property is affected by proposed rezoning actions. O.C.G.A. § 36-67A-3 mandates similar disclosure of gifts or campaign contributions in excess of \$250 by applicants for rezoning. O.C.G.A. § 36-67A-4 provides for misdemeanor punishment for violation of either provision.

TITLE 44: PROPERTY**SB 421 (Act No. 1520); *Abandoned Wells: Counties: Authorization to Cover***

The Act amends O.C.G.A. § 44-1-14 by authorizing a county to abate hazards from abandoned wells or holes without the approval of owners or possessors of private property who cannot be found or are not known. The Act further authorizes a county to expend county funds and use county work crews or private contractors for abatement, and allows for the recovery of costs from the owner or possessor of private property.

TITLE 48: REVENUE AND TAXATION**HB 216 (Act No. 1462); *Income Tax: Dependent Care Assistance***

The Act adds a new subsection (c) to O.C.G.A. § 48-7-27 relating to computation of taxable net income of individuals for Georgia income tax purposes. The Act excludes from an individual's gross income amounts paid or incurred by the individual's employer for dependent care assistance if such amounts are excluded from gross income under Internal Revenue Code § 129. This exclusion applies to tax years beginning on or after January 1, 1986.

TITLE 49: SOCIAL SERVICES**HB 1421 (Act No. 1593); *Human Resources: Employment Checks***

The Act creates a new O.C.G.A. § 49-4-17.1 which permits the Department of Human Resources to check the criminal records of a person whom the Department, "its contractors, or a district or county health agency" is considering for employment "in a position the duties of which involve direct care, treatment, custodial responsibilities, or any combination thereof for its clients." O.C.G.A. § 49-2-14(c) requires the Department of Human Resources to uniformly obtain the criminal records and O.C.G.A. § 49-2-14(d) requires that such data be used exclusively for employment purposes.

TITLE 51: TORTS

SB 77 (Act No. 1197); *Libel Actions: Retraction*

This Act amends O.C.G.A. § 51-5-11 by providing that evidence of a plaintiff's request for or failure to request a retraction will be relevant and competent if the request is made in writing at least seven days prior to filing the action. The Act also allows the defendant seven days to print the retraction upon receipt of plaintiff's demand in "as conspicuous and public a manner" as the alleged libel was published. Upon proof that no retraction was demanded or that a retraction was published in the prescribed manner, the defendant is liable to plaintiff only for actual and not punitive damages.

TITLE 52: WATERS OF THE STATE, PORTS, AND WATERCRAFT

SB 338 (Act No. 935); Effective March 18, 1986; *Georgia Ports Authority: Venue in Actions*

The Act amends O.C.G.A. § 52-2-30 by changing the venue in all actions to protect or enforce any rights created by the Georgia Ports Authority Act and all actions brought against the Georgia Ports Authority to the Superior Court of Chatham County. Prior law provided for Fulton County venue. Under the Act, venue for tort actions lies in the county in which the tort is committed, provided the Authority has a facility located in that county. If there is no facility in that county, proper venue is in the Superior Court of Chatham County. Actions filed in Fulton County prior to the effective date of the Act are not affected.

TITLE 53: WILLS, TRUSTS, AND ADMINISTRATION OF ESTATES

HB 1149 (Act No. 1662); *Estates: Tax Exemption: Investment of Property*

The Act amends O.C.G.A. § 53-8-2 to permit the income beneficiary of a trust qualifying for the federal estate or gift tax marital deduction under the Internal Revenue Code of 1954 to direct the trustees of the trust to convert unproductive or non-income-producing investments into "productive or income-producing property."

SB 112 (Act No. 1513); *Wills, Trusts, and Administration of Estates*

The Act creates a new O.C.G.A. § 53-8-9, which permits investment by corporate fiduciaries authorized or directed to invest funds in United States government-guaranteed obligations to invest in other securities and interests in open-end or closed-end investments registered under the Investment Company Act of 1940. The Act provides the following conditions: 1) the portfolio must be fully collateralized; 2) the investment company or investment trust must take delivery of the collateral; and, 3) the investment company or investment trust must be operated "to provide a net asset value or price per share." The corporate fiduciary's duties and liabilities as a prudent investor pursuant to O.C.G.A. §§ 53-8-1 and 53-8-2 are unchanged.

SB 311 (Act No. 1515); *Estates: Intestacy: Deposit Money*

The Act amends O.C.G.A. § 7-1-239(e), involving deposit of moneys belonging to an intestate decedent left in the possession of another person, to make the deposit of such moneys mandatory. The former language of the statute was permissive, stating that "such person may deposit such moneys" into a savings account.