

# 2023 Georgia Legislation

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The 2023 Georgia Legislative Session began on January 9 and ended in the early minutes of March 30. Lt. Governor Burt Jones and Speaker Jon Burns completed their first session as presiding officers of the Senate and House, respectively. More than one-fifth of the General Assembly also completed their first session, as fifty-seven new lawmakers were elected during the 2022 cycle.

Governor Brian Kemp had forty days following the conclusion of the session to review legislation sent to him by the General Assembly. The Governor can sign, veto, or take no action on a bill. If he takes no action, the bill automatically becomes law at the close of the forty-day window. Those that did not make it to the Governor remain eligible for consideration again in the 2024 General Assembly.

The conclusion of the session is just a temporary respite from legislative action. The House and Senate will delve into legislation that did not pass this year, in some cases doing so as part of an official study committee. Your advocates will continue to engage as these policy issues are deliberated in the coming months.

## ISSUES AT A GLANCE

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**BOMA** Georgia

## PRIORITY ISSUE: BOOTING

Midway through the session, Sen. Josh McLaurin (D-Atlanta) introduced [SB 247](#) to prohibit vehicle booting statewide. One of BOMA's founding principles is the unwavering support of property rights; for years the Association has responded to potential booting bans by underscoring that property owners must have the right to enforce parking on their premises.

After SB 247 failed to meet a key procedural deadline, proponents removed all the original content from an unrelated bill ([HB 119](#)) and replaced it with the booting prohibition language. The Senate Public Safety Committee favorably reported this amended version.

Within hours of the bill coming out of the Senate Public Safety Committee, BOMA Georgia had distributed letters to key members of the Senate urging them to carefully and thoroughly vet HB 119 before allowing it to advance.

The bill was added to the Senate's final debate calendar, which Sen. McLaurin attempted to leverage to bring the Parking Enforcement Coalition and other interested stakeholders to the table. To avoid the outright prohibition contained in HB 119, Sen. McLaurin requested that booting companies and BOMA Georgia voluntarily submit to several provisions, including:

- A prohibition on booting except where expressly authorized by local ordinance,
- A prohibition on predatory monitoring,
- A prohibition on property owners receiving any portion of booting fines,
- A 30-minute window to release a boot following payment, and
- A \$50 cap on booting fines.

BOMA continued to communicate with all members of the Senate, calling for a more deliberative approach to this important issue. Ultimately HB 119 faded as time expired on the final day of the 2023 legislative session. This is likely to be a priority issue for Sen. McLaurin in 2024 and both the original SB 247 and the amended HB 119 remain eligible for additional consideration next year. BOMA will continue to have a seat at the table, advocating for property owners to have access to a variety of parking control methods, including vehicle booting and immobilization.

## PROPERTY MANAGEMENT LEGISLATION

### **Taxing Energy used in Electric Vehicles ([SB 146](#))**

**Sen. Steve Gooch, R-Dahlonega**

**Act 248, signed by the Governor on May 2**

**Rep. Rick Jasperse, R-Jasper**

**Various Effective Dates**

SB 146 is the product of significant effort following the close of the 2022 session dealing with public electric vehicle charging infrastructure. It allows for the sale of electricity at electric vehicle charging stations, making it like the sale of gasoline. It gives regulatory authority over electric vehicle charging stations to the Department of Agriculture and clarifies that the supply of electricity by an electric utility to premises that are electric vehicle charging stations will be considered a sale at retail. The bill provides gallon-equivalent rates for electricity and hydrogen used as motor fuel and specifies that vehicles using these methods as a form of motor fuel are not exempt from public motor fuel and road taxes.

Charging stations are permitted to “sell” electricity without being regulated as a utility if charging services occur on the same property as the charging station. The bill states that an electric utility may not provide, own, operate, or maintain any publicly available electric vehicle charging station, other than community charging equipment unless the station is provided through a separate legal entity that is not regulated by the Georgia Public Service Commission.

All electric vehicle charging providers will register with the Department of Agriculture before operating any electric vehicle charging station and do so annually thereafter. Certificates of registration and conformity will be prominently displayed at each charging station. All electric vehicle charging stations will be capable of accurately measuring and displaying the amount of electricity delivered to each electric vehicle on a per kilowatt-hour basis either on the charging station or on a digital network.

Such stations will be further equipped with meters to record the total kilowatt-hours dispensed. The commissioner of the Department of Agriculture may hire charging station inspectors and investigators. The department is given the power to implement rules necessary to carry out inspections.

The overall legislative becomes effective July 1, 2023; however, Parts II and III, which provide for the regulatory authority of the Department of Agriculture and taxation, are delayed until January 1, 2025.

### **Gas-Powered Landscape Equipment ([HB 374](#))**

**Rep. Brad Thomas, R-Holly Springs**

**Act 257, signed by the Governor on May 2**

**Sen. Shawn Still, R-Norcross**

**Effective May 2, 2023**

As introduced, HB 374 provides guidelines and requirements for municipal deannexations. The bill prohibits deannexations that result in the formation of unincorporated islands or non-contiguous areas within the municipality.

In its final version, HB 374 also includes language from [SB 145](#) by Sen. Shawn Still (R-Norcross), which prohibits local prohibitions or regulations that distinguish or create differing standards for gasoline-powered leaf blowers from any other gasoline-powered, electric, or other types of leaf blowers or lawn equipment.

Finally, it contains language from [HB 438](#), which prohibits governmental entities from adopting any policy that restricts the connection or reconnection of any utility service or sales of certain fuels based on the type of source of energy or fuel delivered or the appliance used by the customer.

**Public Camping and Homelessness ([SB 62](#))**

**Sen. Carden Summers, R-Cordele**

**Rep. Katie Dempsey, R-Rome**

**Act 274, signed by the Governor on May 3**

**Effective July 1, 2023**

SB 62 prohibits local governments from not enforcing ordinances intended to prohibit public camping, sleeping, or obstructing sidewalks. It requires the state auditor to review spending on homeless programs, including federal and local government expenditures. Hospitals and local governments are prohibited from intentionally transferring unhoused people to another jurisdiction unless there is a family member, support program, or other resources available to the person.

**Secondary Metal Recycling and Catalytic Converters ([SB 60](#))**

**Sen. Bo Hatchett, R-Clarksville**

**Rep. Lauren McDonald, R-Cumming**

**Act 31, signed by the Governor on April 26**

**Various Effective Dates**

SB 60 addresses rampant catalytic converter theft. According to the [National Insurance Crime Bureau](#) catalytic theft claims have tripled in the last two years and cost up to \$3,500 to replace. Part I of the measures criminalizes the purchase, solicitation for the purchase of, or advertisement for the purchase of a used, detached catalytic converter, or any non-ferrous metal parts of a catalytic converter unless the person is a registered secondary metals recycler. It also criminalizes the purchase, possession, transportation, or sale of these components unless properly registered. This language takes effect on July 1, 2023.

The bill amends current law and allows secondary metals recyclers to pay in cash in certain circumstances, but cannot pay cash for catalytic converters or coils, used utility wire, used communications copper, cooper wire, or a battery. This language takes effect on January 1, 2024.

Part II removes limitations on how payments can be made for regulated metal property by second metals recyclers. Implementation of this portion is delayed until January 1, 2026, and applies only to transactions on or after that date.

## TORT REFORM LEGISLATION

### **Revise when an Action may Operate as a *Lis Pendens* ([HB 444](#))**

**Rep. Matt Reeves, R-Duluth**

**Sen. Brian Strickland, R-McDonough**

**Act 338, signed by the Governor on May 4**

**Effective July 1, 2023**

A *lis pendens* is a written notice that a lawsuit has been filed in superior court concerning a property's title or ownership interest, potentially making the property less attractive to a buyer or lender. Once filed, the title is subject to the outcome of the lawsuit.

HB 444 provides that no action involving an interest in real property will operate as a *lis pendens* until it is issued by a court. The legislation goes on to describe the requirements for the issuance and effectiveness of a court-issued *lis pendens*.

The clerks of superior courts must keep a *lis pendens* docket in which they record all notices of *lis pendens* on real property filed with them. Dismissal of any action by a plaintiff, the plaintiff's withdrawal, or the settlement or final judgment will be indicated on the face of the *lis pendens* record by the clerk. Actions involving claims against real property related to domestic relations are exempted from these new provisions.

### **Curing Defective Deeds and Other Instruments ([HB 182](#))**

**Rep. Matt Reeves, R-Duluth**

**Sen. Brian Strickland, R-McDonough**

**Act 337, signed by the Governor on May 4**

**Various Effective Dates**

HB 182 incorporates language recommended by the United States Eleventh Circuit Court of Appeals in *Pingora Loan Servicing, LLC, v. Scarver*. It aligns the Georgia recording statute regarding deeds and other instruments with the savings statute in OCGA 44-2-18, allowing an improperly executed instrument to be corrected by having the savings statute apply to both attestations and acknowledgments. This portion of the legislation takes effect upon the Governor's signature and applies to all deeds and other instruments recorded since July 1, 2015.

The bill also contains language from [HB 292](#) regarding the nonjudicial foreclosure of timeshare estates. It allows for a procedure for foreclosing on time-share estates through a trustee foreclosure procedure, in addition to judicial and nonjudicial foreclosure procedures provided for in the Code. A mortgage must permit the trustee foreclosure procedure. If it does not, an amendment to the time-share instrument must be adopted and recorded prior to the procedure being used. The trustee must be a member of the State Bar and use good faith, skill, and diligence in discharging the trustee's duties. This section takes effect on July 1, 2023.

### **Legal Services and Apex Doctrine ([SB 74](#))**

**Sen. Blake Tillery, R-Vidalia**

**Rep. James Burchett, R-Millwood**

**Act 77, signed by the Governor on May 1**

**Effective May 1, 2023**

As introduced, SB 74 makes it unlawful to misrepresent oneself as an attorney or misrepresent an entity as engaged in providing legal services unless that person is a duly licensed attorney at law in Georgia or unless the entity is entitled to furnish legal services. The bill provides that it is unlawful to represent that a person featured in legal media can offer legal services in Georgia when that person is not a duly licensed attorney at law. Failing to provide accurate language reflecting the legal services, the scope of work, success rate, or fees of a person practicing law is also unlawful.

As the session advanced, language was added to incorporate apex doctrine language in Georgia code. A June [GA Supreme Court ruling](#) rejected the apex doctrine, which protects high-ranking corporate and government officials from unwarranted depositions.

The bill allows for protective orders to prohibit depositions of high-ranking officers of private, public, and governmental organizations by showing that the officer lacks unique personal knowledge of any relevant subject matter to the pending action. The person seeking a protective order has the burden of establishing the factors necessary to be granted the protective order.

If the party seeking discovery demonstrates that they have exhausted reasonable means of discovery, but the discovery remains inadequate, a protective order will not be issued. When a party seeking a protective order shows that an officer knows some but not all relevant matters, the court may limit the scope of the deposition rather than prohibit the deposition. The bill requires that a chief executive officer of a state government entity provide at least one designee for service of process for civil actions brought against the state.

## **PROPERTY TAXATION & VALUATION LEGISLATION**

### **Ad Valorem Tax Relief in Disaster Areas ([HB 311](#))**

**Rep. Lynn Smith, R-Newnan**

**Sen. Matt Brass, R-Newnan**

**Act 3, signed by the Governor on March 16**

**Effective March 16, 2023**

Last year, Georgia voters overwhelmingly amended the state's constitution to allow local governments the option of offering temporary tax relief to certain properties located in nationally declared federal disaster areas. HB 311 is the second part of that process and contains the enabling legislation necessary for full enactment.

During a disaster response operation, the local emergency management director of an impacted area will travel to and assess whether buildings damaged by the disaster are qualified as either "major" or "destroyed". Assessments will be provided to the relevant county tax commissioners, who will identify eligible tax parcel numbers within the assessment before providing the assessment to each affected governing authority located within the disaster area.

Upon receipt of the report, a governing authority may adopt a resolution providing a defined amount of temporary tax relief to eligible damaged or destroyed buildings. The temporary tax relief may be offered in the form of either a millage rate reduction or a credit.

## CODE ENFORCEMENT, LAND USE, AND DEVELOPMENT LEGISLATION

### Uses of Ungraded Lumber ([HB 132](#))

Rep. David Jenkins, R-Grantville

Sen. Lee Anderson, R-Grovetown

Act 261, signed by the Governor on May 3

Effective July 1, 2023

HB 132 requires the Department of Community Affairs to amend minimum codes to allow ungraded lumber to be used in the construction or repair of accessory structures not containing habitable space on property zoned or primarily used for residential or agricultural purposes.

## TAX LEGISLATION

### Tax Credit Review Panel

In mid-March, Governor Brian Kemp, Lt. Governor Burt Jones, and Speaker of the House Jon Burns announced a plan to review the state's various tax credits and their return on investment. The General Assembly seems to prioritize this type of review every ten to fifteen years.

This review will happen outside the formal legislative process and will include key members of the House and Senate, along with the Department of Economic Development, Department of Revenue, Governor's Office of Planning and Budget, and industry stakeholders. Legislative appointees include:

	House	Senate
Co-Chairs	Rep. Shaw Blackmon, R-Bonaire	Sen. Chuck Hufstetler, R-Rome
Members	Rep. Debbie Buckner, D-Junction City	Sen. John Albers, R-Roswell
	Rep. Kasey Carpenter, R-Dalton	Sen. Greg Dolezal, R-Cumming
	Rep. Chuck Martin, R-Alpharetta	Sen. Bill Cowsert, R-Athens
	Rep. Bruce Williamson, R-Monroe	Sen. Doc Rhett, D-Marietta
Ex-Officio	Rep. Matt Hatchett, R-Dublin	

The panel may recommend legislation for consideration in an upcoming legislative session. The Association will closely monitor this effort as it takes shape.

### Income Taxes Paid at the Entity Level ([HB 412](#))

Rep. Bruce Williamson, R-Monroe

Sen. John Albers, R-Roswell

Act 238, signed into law May 2

Effective July 1, 2023

HB 412 relates to the types of partnerships that may elect to pay income taxes at the entity level. It removes a limitation stipulating that OCGA 48-7-23 only applies to a partnership that is 100 percent directly owned and controlled by eligible shareholders of an "S" corporation. The measure takes effect July 1 and applies to all taxable years beginning on or after January 1, 2023.

# Legislation for Consideration in 2024

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## PROPERTY MANAGEMENT LEGISLATION

### **Prohibit Vehicle Booting ([HB 119](#))**

**Rep. John Corbett, R-Lake Park**

**Sen. Josh McLaurin, D-Atlanta**

#### **Remanded to the Senate Public Safety Committee**

HB 119 and [SB 247](#) prohibit vehicle booting statewide. Proponents attempted several maneuvers during the final days of the session to advance the concept but were unsuccessful. This perennial issue is sure to receive continued attention heading into 2024.

### **Second Amendment Infringement Protections ([HB 293](#))**

**Rep. Charlice Byrd, R-Woodstock**

#### **Remains in the House Judiciary Non-Civil Committee**

HB 293 finds that federal acts, laws, executive orders, administrative orders, rules, and regulations infringe on a law-abiding citizen's right to bear arms if it forbids the possession, ownership, or use or transfer of a firearm, firearm accessory, or ammunition by law-abiding citizens. It is unclear if this legislation would prevent commercial property owners from prohibiting tenants from possessing a firearm on the premises.

### **Criminal Trespass and Damage to Property ([HB 567](#))**

**Rep. Mike Cheokas, R-Americus**

#### **Remains in the House Public Safety and Homeland Security Committee**

HB 567 allows peace officers to serve as authorized representatives of a property owner or rightful occupant in certain instances relating to the enforcement of criminal trespass. It authorizes the establishment of trespass enforcement programs by governing authorities of counties and municipal corporations.

## TORT REFORM LEGISLATION

### **Premises Liability ([SB 186](#))**

**Sen. Greg Dolezal, R-Alpharetta**

#### **Remanded to the Senate Insurance and Labor Committee**

SB 186 limits landowner liability regarding invitees, licensees, and trespassers and removes landowner liability due to alleged constructive notice of prior crimes or violent nature. The bill passed out of the Senate Insurance and Labor Committee on February 28. It was eligible for a vote in the full Senate on March 6 but was tabled.



## PROPERTY TAXATION & VALUATION LEGISLATION

### **County Boards of Equalization ([HB 264](#))**

**Rep. Vance Smith, R-Pine Mountain**

#### **Remanded to the Senate Finance Committee**

HB 264 revises certain deadlines and procedures for the handling of appeals of property tax assessments. As adopted by the House, the bill reduced the time in which a taxpayer must appeal the asserted value. The Senate Finance Committee returned the period to its original state. It also changes certain provisions specific to so-called 299c locks.

### **C-PACER Program ([HB 206](#))**

**Rep. Steven Sainz, R-Woodbine**

#### **Remains in the Senate State and Local Governmental Operations Committee**

Commercial Property Assessed Conservation, Energy, and Resiliency (C-PACER) is a public-private partnership that is intended to enable commercial building owners to invest in their property. Under these programs, a private lender finances energy-saving building upgrades and is repaid via a special assessment added to the property's tax bill. Senators expressed concerns that taxpayers could be liable for failed projects and questioned the constitutionality of the overall framework.

### **“Intent to Increase” Advertisements ([HB 90](#))**

**Rep. Ron Stephens, R-Savannah**

#### **Remains in the House Ways and Means Committee**

HB 90 provides that the provisions requiring advertisement of intent to increase property taxes shall not apply to levying authorities and recommending authorities with base year homestead exemptions.

### **Waive Delinquent Property Taxes ([SR 82](#))**

**Sen. Carden Summers, R-Cordele**

#### **Remains in the Senate Rules Committee**

SR 82 proposes an amendment to the Constitution to authorize the tax commissioner, subject to local governing authority approval, to waive certain delinquent ad valorem property taxes, penalties, and interest to place non-revenue generating and tax delinquent property back to effective utilization status.

### **Buckhead City ([SB 114](#))**

**Sen. Randy Robertson, R-Cataula**

#### **Lost in the Senate**

SB 114 creates the City of Buckhead City. The author also introduced [SB 113](#), which provides for the transition of services and facilities from an existing municipality to a newly incorporated municipality. These measures will presumably travel together. The Senate rejected the bill 23-33 on March 2.

## CODE ENFORCEMENT, LAND USE, AND DEVELOPMENT LEGISLATION

### **Rezoning Moratorium ([HB 514](#))**

**Rep. Dale Washburn, R-Macon**

**Sen. Mike Dugan, R-Carrollton**

**Pending in Conference Committee**

HB 514 limits zoning moratoriums to no more than 180 days. It allows local governments to levy, collect, use, and waive fees related to zoning decisions and related permits so long as the proceeds are used for the administration and enforcement of zoning ordinances.

HB 514 was one of the first bills voted on by the Senate on the final day. Sen. Mike Dugan (R-Carrollton) amended it on the floor to incorporate language from his [SB 136](#) which allows local governments to waive development impact fees if the project creates workforce housing. There is concern that local governments would raise impact fees on non-qualifying projects to replace revenue from the waived fees.

The House and Senate volleyed the bill between chambers throughout the day, taking the necessary procedural steps to move the bill to a conference committee. The House appointed their conferees around 9:45pm, while the Senate did not do so until after 11:30pm. Time expired before a compromise could be reached.

### **Discount for Wind-Resistant Properties ([HB 279](#))**

**Rep. Matthew Gambill, R-Cartersville**

**Remanded to the Senate Insurance and Labor Committee**

HB 279 requires insurers to offer a premium discount or reduction for home or commercial property owners who build or retrofit a home or commercial property that better resists tornado, hurricane, or other catastrophic windstorm events. The standard for “fortified” buildings is maintained by Insurance Institution for Business and Home Safety. Insurers are permitted to set their discount rate.

### **Prohibit Certain Countries from Acquiring Property ([SB 132](#))**

**Sen. Brandon Beach, R-Alpharetta**

**Remanded to the House Agriculture and Consumer Affairs Committee**

SB 132 prohibits nonresident aliens from acquiring a “possessory interest” in agricultural land or land within a 25-mile radius of a military base, installation, or airport.

### **Prohibit Certain Countries from Acquiring Property ([HB 246](#))**

**Rep. Martin Momtahan, R-Dallas**

**Remains in the House Judiciary Committee**

HB 246 prohibits China, Iran, North Korea, and Russia, their citizens, and companies owned or operated by them to acquire title to property in this state.

### **Indoor Air Quality ([HB 26](#))**

**Rep. Mandisha Thomas, D-Atlanta**

**Remains in the House Public Health Committee**

HB 26 requires the Department of Community Affairs to include certain indoor air quality provisions in applicable state minimum standard codes.

### **Use of Certain Refrigerants ([HB 336](#))**

**Rep. Brent Cox, R-Dawsonville**

**Remains in the Senate Regulated Industries and Utilities Committee**

HB 336 prohibits state codes from banning the use of a refrigerant that is, or, as of July 1, 2023, was approved for use so long as the equipment containing the refrigerant is listed and installed in accordance with applicable safety standards. This is intended to allow installed equipment to be serviced through its lifespan rather than necessitating equipment be replaced simply because the equipment's refrigerant is no longer available. In a committee meeting on March 23, the Department of Community Affairs requested that the bill not move forward and instead allow the issue to be addressed by the State Codes Advisory Council.

### **Local Regulatory Fees ([HB 461](#))**

**Rep. Brad Thomas (R-Holly Springs)**

**Remains in the House Ways and Means Committee**

HB 461 requires local governments to approximate the actual cost of regulatory services they provide and use the fees exclusively for that regulatory activity. Last year, local governments fiercely opposed a similar bill ([HB 302](#)), claiming it would restrict their ability to determine building inspection fees.

## **About BOMA Georgia**

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BOMA Georgia's mission is to lead the commercial real estate community to enhance the professionalism and value of its members through education, advocacy, community involvement, membership participation and the open exchange of ideas. The association is the largest local affiliate of BOMA International, which was founded in 1907.

Throughout the legislative session, BOMA Georgia updates members on legislation affecting the industry, facilitates connections between members and legislators, and advocates directly to legislators. The BOMA Georgia Government Affairs Committee meets regularly to discuss legislation, and the association keeps members informed through a weekly eNewsletter, the [Gold Dome Dispatch](#).