



LEXSTAT O.C.G.A. § 36-67A-1(9)

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\*\*\* Current Through the 2009 Regular Session \*\*\*  
\*\*\* Annotations Current Through January 29, 2010 \*\*\*

TITLE 36. LOCAL GOVERNMENT  
PROVISIONS APPLICABLE TO COUNTIES AND MUNICIPAL CORPORATIONS  
CHAPTER 67A. CONFLICT OF INTEREST IN ZONING ACTIONS

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*O.C.G.A. § 36-67A-1 (2010)*

§ 36-67A-1. Definitions

As used in this chapter, the term:

- (1) "Applicant" means any person who applies for a rezoning action and any attorney or other person representing or acting on behalf of a person who applies for a rezoning action.
- (2) "Business entity" means any corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust.
  - (2.1) "Campaign contribution" means a "contribution" as defined in paragraph (7) of *Code Section 21-5-3*.
- (3) "Financial interest" means all direct ownership interests of the total assets or capital stock of a business entity where such ownership interest is 10 percent or more.
- (4) "Local government" means any county or municipality of this state.
- (5) "Local government official" means any member of the governing authority of a local government or any member of a planning or zoning commission.
- (6) "Member of the family" means the spouse, mother, father, brother, sister, son, or daughter of a local government official.
  - (6.1) "Opponent" means any person who opposes a rezoning action or any attorney or other person representing or acting on behalf of a person who opposes a rezoning action.
  - (6.2) "Oppose" means to appear before, discuss with, or contact, either orally or in writing, any local government or local government official and argue against a rezoning action.
- (6.3) "Person" means an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.
- (7) "Property interest" means the direct ownership of real property and includes any percentage of ownership less than total ownership.
- (8) "Real property" means any tract or parcel of land and, if developed, any buildings or structures located on the land.

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(9) "Rezoning action" means action by local government adopting an amendment to a zoning ordinance which has the effect of rezoning real property from one zoning classification to another.

**HISTORY:** Code 1981, § 36-67A-1, enacted by Ga. L. 1986, p. 1269, § 1; Ga. L. 1991, p. 1365, § 1; Ga. L. 2005, p. 859, § 24/HB 48.

**NOTES:** THE 2005 AMENDMENT, effective January 9, 2006, substituted "paragraph (7)" for "paragraph (6)" in paragraph (2.1).

**EDITOR'S NOTES.** --Ga. L. 2005, p. 859, § 28, not codified by the General Assembly, provides that the Act shall not apply to any violation occurring prior to January 9, 2006.

**LAW REVIEWS.** --For article, "Local Government Law," see *53 Mercer L. Rev. 389 (2001)*. For article on 2005 amendment of this section, see *22 Ga. St. U.L. Rev. 119 (2005)*.

**RESEARCH REFERENCES**

ALR. --Bias or interest of administrative officer sitting in zoning proceeding as necessitating disqualification of officer or affecting validity of zoning decision, *4 ALR6th 263*.

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LEXSTAT O.C.G.A. 36-67A-2

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*O.C.G.A. § 36-67A-2 (2010)*

§ 36-67A-2. Disclosure of financial interests

A local government official who knew or reasonably should have known he or she:

- (1) Has a property interest in any real property affected by a rezoning action which that official's local government will have the duty to consider;
- (2) Has a financial interest in any business entity which has a property interest in any real property affected by a rezoning action which that official's local government will have the duty to consider; or
- (3) Has a member of the family having any interest described in paragraph (1) or (2) of this Code section

shall immediately disclose the nature and extent of such interest, in writing, to the governing authority of the local government in which the local government official is a member. The local government official who has an interest as defined in paragraph (1) or (2) of this Code section shall disqualify himself from voting on the rezoning action. The disqualified local government official shall not take any other action on behalf of himself or any other person to influence action on the application for rezoning. The disclosures provided for in this Code section shall be a public record and available for public inspection at any time during normal working hours.

**HISTORY:** Code 1981, § 36-67A-2, enacted by Ga. L. 1986, p. 1269, § 1; Ga. L. 1991, p. 1365, § 1.

**RESEARCH REFERENCES**

ALR. --Bias or interest of administrative officer sitting in zoning proceeding as necessitating disqualification of officer or affecting validity of zoning decision, 4 *ALR6th* 263.

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LEXSTAT O.C.G.A. § 45-10-1

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TITLE 45. PUBLIC OFFICERS AND EMPLOYEES  
CHAPTER 10. CODES OF ETHICS AND CONFLICTS OF INTEREST  
ARTICLE 1. CODES OF ETHICS

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*O.C.G.A. § 45-10-1 (2010)*

§ 45-10-1. Establishment and text of code of ethics for government service generally

There is established for and within the state and for and in all governments therein a code of ethics for government service which shall read as follows:

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in government service should:

- I. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or government department.
- II. Uphold the Constitution, laws, and legal regulations of the United States and the State of Georgia and of all governments therein and never be a party to their evasion.
- III. Give a full day's labor for a full day's pay and give to the performance of his duties his earnest effort and best thought.
- IV. Seek to find and employ more efficient and economical ways of getting tasks accomplished.
- V. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not, and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.
- VI. Make no private promises of any kind binding upon the duties of office, since a government employee has no private word which can be binding on public duty.
- VII. Engage in no business with the government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.
- VIII. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.
- IX. Expose corruption wherever discovered.
- X. Uphold these principles, ever conscious that public office is a public trust.

**HISTORY:** Ga. L. 1968, p. 1369.

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**NOTES: LAW REVIEWS.** --For article "Conflicts of Interests of Public Officers and Employees," see *13 Ga. St. B.J. 64 (1976)*. For article, "Georgia's New Ethics Laws: A Summary of the Changes Relevant to Lobbyists and Legislators," see *11 Ga. St. B.J. 22 (No. 4, 2005)*.

## JUDICIAL DECISIONS

**REMOVAL FROM OFFICE.** --A city commissioner's removal from office, based on acts committed prior to taking office, was erroneous because: (1) removal was not authorized by the city's charter; (2) the commissioner's conduct of maintaining innocence until the entry of a guilty plea after taking office was not an official act or one done under the color of the office; (3) the acts committed did not prevent the commissioner from performing the duties of that post; and (4) the commissioner was not guilty of evading the law after becoming a member of the commission. *Ciccio v. City of Hepzibah*, 289 Ga. App. 134, 656 S.E.2d 245 (2008), cert. denied, 2008 Ga. LEXIS 474 (Ga. 2008).

**NO DUTY ON BOARD TO PUT CITIZEN ON AGENDA.** --A citizen was not entitled to a writ of mandamus directing a school board to place the citizen on the board's agenda because setting the agenda was a discretionary act that was not subject to mandamus and none of the statutes cited by the citizen, O.C.G.A. §§ 20-2-1160(a), 45-10-1 and 50-6-6(b), imposed a duty on the board to place the citizen on the board's agenda. *James v. Montgomery County Bd. of Educ.*, 283 Ga. 517, 661 S.E.2d 535 (2008).

CITED in *Pope v. Propst*, 179 Ga. App. 211, 345 S.E.2d 880 (1986).

## OPINIONS OF THE ATTORNEY GENERAL

**FUNERAL SERVICE INSPECTORS AS TRADE ASSOCIATION OFFICERS.** --State Board of Funeral Service inspectors appointed pursuant to O.C.G.A. Title 43, Chapter 18 are not prohibited by state law from holding appointed or elected office in private associations of funeral service practitioners. However, serving as an officer in such private association could create an appearance of impropriety by competing loyalties which may be owed to the association and to the board. 1990 Op. Att'y Gen. No. 90-25.

**DUAL EMPLOYMENT.** --A state employee may not contract with a county to perform services during the same 40-hour work week. 1998 Op. Att'y Gen. No. U98-12.

## RESEARCH REFERENCES

AM. JUR. 2D. --63C Am. Jur. 2d, *Public Officers and Employees*, § 247 et seq.

C.J.S. --67 C.J.S., *Officers and Public Employees*, § 197.

ALR. --Refusal of public officer to answer frankly questions asked him during an investigation as ground for removal or discipline, 77 ALR 616.

Liability of public officer for interest or other earnings received on public money in his possession, 5 ALR2d 257.

Validity, construction, and effect of state statutes restricting political activities of public officers or employees, 51 ALR4th 702.

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