

House Bill 369 (AS PASSED HOUSE AND SENATE)

By: Representatives Hilton of the 95<sup>th</sup>, Marin of the 96<sup>th</sup>, and Holcomb of the 81<sup>st</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To create the City of Peachtree Corners Public Facilities Authority; to provide for a short title  
2 and legislative findings; to confer powers and impose duties on the authority; to provide for  
3 the membership and the appointment of members of the authority and their terms of office,  
4 qualifications, duties, powers, and compensation; to provide for vacancies, organization,  
5 meetings, and expenses; to provide for definitions; to provide for the issuance and sale of  
6 revenue bonds and their negotiability, sale, and use of proceeds from such sales; to provide  
7 for conditions for issuance of such obligations; to prohibit the pledge of credit for the  
8 payment of bonds; to provide for trust indentures; to provide for payment of bond proceeds;  
9 to provide for bondholder remedies and protection; to provide for refunding bonds; to  
10 provide for bond validation; to provide for venue and jurisdiction; to provide for trust funds;  
11 to provide for the authority's purpose; to provide for charges; to provide for rules and  
12 regulations; to provide for tort immunity; to provide for tax exemptions and exemptions from  
13 levy and sale; to provide for supplemental powers; to provide for effect on other  
14 governments; to provide for liberal construction; to provide for severability; to provide for  
15 related matters; to provide an effective date; to repeal conflicting laws; and for other  
16 purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 **SECTION 1.**

19 Short title.

20 This Act shall be known and may be cited as the "City of Peachtree Corners Public Facilities  
21 Authority Act."

22

**SECTION 2.**

23

Creation of authority; purpose.

24 There is created a body corporate and politic to be known as the "City of Peachtree Corners  
 25 Public Facilities Authority," which shall be deemed to be a public corporation. Such  
 26 corporation shall be separate and distinct from any public corporation or other entity  
 27 heretofore created by the General Assembly and shall be an instrumentality of the State of  
 28 Georgia exercising governmental powers. The authority is created for the purpose of  
 29 promoting the public good and general welfare of the citizens of the City of Peachtree  
 30 Corners and assisting the City of Peachtree Corners in providing facilities, equipment, and  
 31 services to the citizens of the City of Peachtree Corners in the most efficient means possible.  
 32 In connection with the exercise of any of its powers, the members of the authority may make  
 33 findings or determinations that will promote the public good and general welfare of the  
 34 citizens of the City of Peachtree Corners and assist the City of Peachtree Corners in  
 35 providing facilities, equipment, and services, and such findings or determinations, if made,  
 36 shall be conclusive and binding.

37

**SECTION 3.**

38

Definitions.

39 As used in this Act, the following words and terms shall have the meaning specified unless  
 40 the context or use clearly indicates a different meaning or intent:

41 (1) "Authority" means the City of Peachtree Corners Public Facilities Authority created  
 42 by this Act.

43 (2) "Cost of the project" means and includes:

44 (A) The cost of construction;

45 (B) The cost of all land and interests therein, properties, rights, easements, and franchises  
 46 acquired;

47 (C) The cost of acquiring, constructing, or erecting buildings, improvements, materials,  
 48 labor, and services;

49 (D) The cost of all machinery and equipment;

50 (E) Financing charges and interest prior to and during construction or acquisition of any  
 51 project and for six months after such project is placed into service and operational at the  
 52 level intended;

53 (F) The cost of construction, engineering, architectural, fiscal, accounting, inspection,  
 54 and legal expenses relating to a project or to the financing or refinancing of any project

55 and other expenses necessary or incident to determining the feasibility or practicability  
 56 of any project; and

57 (G) Administrative expenses relating to any project or the financing or refinancing  
 58 thereof and such other expenses as may be necessary or incident to the financing of a  
 59 project authorized by this Act, the acquisition, construction, renovation, reconstruction,  
 60 or remodeling of a project, and the placing of the same in operation.

61 Any obligation or expense incurred for any of the purposes in this paragraph shall be  
 62 regarded as part of the cost of the project and may be paid or reimbursed as such out of any  
 63 funds of the authority, including proceeds of any revenue bonds issued under the provisions  
 64 of this Act for any such project or projects and the proceeds of the sale of any contracts,  
 65 lease agreements, or installment sales agreements or the amounts payable thereunder, either  
 66 directly or by the creation of interests therein.

67 (3) "City" means the City of Peachtree Corners, Georgia, or its successor.

68 (4) "Project" means and includes the acquisition, construction, equipping, maintenance,  
 69 and operation of any undertaking as defined in Code Section 36-82-61 of the O.C.G.A.;  
 70 any undertaking, project, or service for which any governmental body contracting with the  
 71 authority is authorized by law to undertake in the performance of its governmental,  
 72 administrative, or proprietary functions; all personal property to be used in connection  
 73 therewith; and the lease and sale of any part or all of such facilities, including real and  
 74 personal property, so as to ensure the efficient and proper development, maintenance, and  
 75 operation of such project deemed by the authority to be necessary, convenient, or desirable.  
 76 A project may be composed exclusively of real or personal property, equipment, fixtures,  
 77 machinery, or other property of any nature whatsoever used or useful in connection with  
 78 the governmental, administrative, and proprietary functions of any governmental body  
 79 contracting with the authority for its services or facilities.

80 (5) "Revenue bonds" means revenue bonds issued by the authority pursuant to the terms  
 81 of this Act or under Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond  
 82 Law."

#### 83 **SECTION 4.**

#### 84 Powers of the authority.

85 The authority shall have the power:

- 86 (1) To hold, own, lease, transfer, and convey real and personal property or interests  
 87 therein;
- 88 (2) To sue and be sued;
- 89 (3) To have and use a seal and to alter the same at its pleasure;

- 90 (4) To acquire, construct, purchase, own, equip, operate, extend, improve, lease, and sell  
91 any project;
- 92 (5) To exercise the powers conferred upon a public corporation or a public authority by  
93 Article IX, Section III, Paragraph I of the Constitution of Georgia, and such authority is  
94 expressly declared to be a public corporation or a public authority within the meaning of  
95 such provision of the Constitution of Georgia;
- 96 (6) To acquire property and projects in its own name by gift or by purchase on such terms  
97 and conditions and in such manner as it may deem proper. If the authority shall deem it  
98 expedient to construct any project on real property or any interest therein or usufruct which  
99 is subject to the control of the city, the city is authorized to convey such real property or  
100 interest therein to the authority for no consideration or for such consideration as may be  
101 agreed upon by the authority and the city, taking into consideration the public benefit to be  
102 derived from such conveyance. The city may transfer such property or interest therein  
103 without regard to any determination as to whether or not such property or interest therein  
104 is surplus;
- 105 (7) To accept gifts and bequests for its corporate purposes;
- 106 (8) To appoint, select, and employ, with or without bidding, as the authority may choose,  
107 officers, agents, and employees, including engineering, architectural, and construction  
108 experts, fiscal agents, underwriters or other advisors, and attorneys, and to fix their  
109 compensation;
- 110 (9) To make and execute with public and private persons and corporations contracts, lease  
111 agreements, rental agreements, installment sale agreements, and other instruments relating  
112 to its projects and incident to the exercise of the powers of the authority, including  
113 contracts for constructing, renting, leasing, and selling its projects for the benefit of the  
114 city; and, without limiting the generality of this paragraph, authority is specifically granted  
115 to the authority and to the city to enter into contracts, lease agreements, rental agreements,  
116 installment sale agreements, and related agreements for a term not exceeding 50 years as  
117 provided in Article IX, Section III of the Constitution of Georgia;
- 118 (10) To lease, sell, transfer, or otherwise dispose of any property, real or personal, or assets  
119 of the authority or to assign its rights under its contracts, lease agreements, or installment  
120 sale agreements or its right to receive payments thereunder, either directly or through trust  
121 or custodial arrangements whereby interests are created in such contracts, lease agreements,  
122 or installment sale agreements or the payments to be received thereunder through the  
123 issuance of trust certificates, certificates of participation, custodial receipts, or other similar  
124 instruments;
- 125 (11) To accept loans or grants of money or property of any kind from the United States,  
126 the State of Georgia, or any political subdivision of the State of Georgia;

- 127 (12) To borrow money for any of its corporate purposes and to issue revenue bonds, notes,  
 128 or other types of indebtedness payable solely from funds or revenues of the authority  
 129 pledged for that purpose; to pledge and assign any of its revenues, income, rent, charges,  
 130 and fees to provide for the payment of the same; and to provide for the rights of the holders  
 131 of such revenue bonds;
- 132 (13) To enter into interest rate swaps, collars, or other types of interest rate management  
 133 agreements or credit enhancement or liquidity agreements relating to any obligations of the  
 134 authority, provided that the obligation of the authority under such agreements shall not be  
 135 a general obligation of the authority but shall be a limited obligation of the authority  
 136 payable from a specific source of funds identified for such purpose;
- 137 (14) To make such rules and regulations governing its employees and property as it may  
 138 in its discretion deem proper;
- 139 (15) To be sued the same as any private corporation on any contractual obligation of the  
 140 authority. The authority shall have the same rights to sue any other person or entity as any  
 141 private corporation; and
- 142 (16) To issue its revenue bonds, notes, or other obligations to finance or refinance any  
 143 project which may be financed by the city under Article 3 of Chapter 82 of Title 36 of the  
 144 O.C.G.A., the "Revenue Bond Law."

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**SECTION 5.**

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Members of the authority; terms of office.

147 The authority shall consist of seven members who shall be appointed by the mayor and  
 148 council of the City of Peachtree Corners. The mayor and councilmembers of the City of  
 149 Peachtree Corners may be appointed as members of the authority. In the event that the  
 150 mayor or any councilmember is appointed as a member of the authority, such mayor or  
 151 councilmember shall hold the office of member of the authority for a term coinciding with  
 152 his or her term on the city council or as mayor and shall serve until his or her successor takes  
 153 office. All other appointments of members to the authority shall be made for terms of three  
 154 years and until successors are appointed and qualified. Immediately after such appointments,  
 155 the members of the authority shall enter upon their duties. To be eligible for appointment  
 156 as a member of the authority, a person shall be at least 21 years of age, shall be a resident of  
 157 the City of Peachtree Corners, Georgia, for at least two years prior to the date of his or her  
 158 appointment, and shall not have been convicted of a felony. Any member of the authority  
 159 may be selected and appointed to succeed himself or herself. The mayor and city council,  
 160 in their capacities to the city, may nominate and appoint up to three additional members to  
 161 the authority who possess knowledge or experience in matters within the power of the

162 authority. The three additional members of the authority shall serve one-year terms and are  
163 eligible to be reappointed without limitation. Immediately after their official seating on the  
164 authority, the additional members of the authority shall enter upon their duties. A majority  
165 of the members of the authority shall constitute a quorum, and no vacancy on the authority  
166 shall impair the right of the quorum to exercise all the rights and perform all the duties of the  
167 authority, and in every instance, a majority vote of a quorum shall authorize any legal act of  
168 the authority, including all things necessary to authorize and issue revenue bonds. The  
169 authority shall elect one of its members as chairperson and shall elect a secretary and a  
170 treasurer. The secretary and treasurer need not necessarily be members of the authority. The  
171 chairperson shall be a nonvoting member of the authority; however, if at any time there are  
172 an even number of members on the authority, the chairperson shall be allowed to vote but  
173 only to break a tie. The authority may elect a vice chairperson or any number of assistant  
174 secretaries or treasurers as it may from time to time deem necessary or desirable. The  
175 members of the authority shall not be entitled to compensation for their services but shall be  
176 entitled to and shall be reimbursed for their actual expenses necessarily incurred in the  
177 performance of their duties. The authority shall make rules and regulations for its own  
178 governance, and it shall have perpetual existence. Any change in name or composition of  
179 the authority shall in no way affect the vested rights of any person under the provisions of  
180 this Act or impair the obligations of any contracts existing under this Act.

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**SECTION 6.**

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## Issuance and sale of revenue bonds.

183 The authority shall have power and is authorized from time to time to provide for the  
184 issuance and sale of negotiable revenue bonds in the manner provided by Article 3 of  
185 Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond Law," for the purpose of paying  
186 all or any part of the cost of any one or more projects, including the cost of constructing,  
187 reconstructing, equipping, extending, adding to, or improving any such project, or for the  
188 purpose of refunding, as provided in this Act, any such bonds of the authority or any other  
189 authority or public body previously issued to finance or refinance the cost of a project. The  
190 principal of and interest on such revenue bonds shall be a limited obligation of the authority  
191 payable solely from the source or sources of funds specified in the indenture or resolution  
192 of the authority authorizing the issuance of such revenue bonds. The revenue bonds of each  
193 issue shall be issued and validated under and in accordance with the provisions of the  
194 "Revenue Bond Law." Such revenue bonds shall mature on such dates, bear interest at such  
195 rate or rates, whether fixed or variable, be subject to redemption, and have such other terms  
196 as the authority may provide in the indenture or resolution relating thereto.

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**SECTION 7.**

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Power to incur loans or issue notes.

199 The authority shall also have the power to incur indebtedness from time to time for the  
200 purpose of financing or refinancing any project or refunding any obligations previously  
201 issued for such purpose, or for any other purpose, whether in the form of a loan or through  
202 the issuance of notes, and the principal of and interest on such notes or loans shall be a  
203 limited obligation of the authority payable solely from the source or sources of funds  
204 specified in the resolution or indenture of the authority authorizing such loan or the issuance  
205 of such notes. Any such loan or notes shall not be required to be validated as a condition to  
206 the issuance thereof and shall have such terms as may be specified by the authority in the  
207 resolution or indenture authorizing the same.

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**SECTION 8.**

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Negotiable instruments; bonds or other obligations exempt from taxation.

210 All revenue bonds issued under the provisions of this Act shall have all the qualities and  
211 incidents of negotiable instruments under the negotiable instruments law of this state. All  
212 such bonds, and any loan incurred or note issued as provided in this Act, are declared to be  
213 issued or incurred for an essential public and governmental purpose, and such obligations and  
214 the interest thereon shall be exempt from all taxation within this state.

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**SECTION 9.**

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Revenue bonds or notes not a debt or general obligation.

217 Revenue bonds or notes issued under the provisions of this Act or any loan incurred as  
218 authorized herein shall not constitute a debt or a pledge of the faith and credit of the State of  
219 Georgia or of any political subdivision thereof, including the city, but shall be payable solely  
220 from the sources as may be designated in the resolution or indenture of the authority  
221 authorizing the issuance of the same. The issuance of such obligations shall not directly,  
222 indirectly, or contingently obligate the State of Georgia or any political subdivision thereof,  
223 including the city, to levy or pledge any form of taxation for the payment thereof. No holder  
224 of any bond or receiver or trustee in connection therewith shall have the right to enforce the  
225 payment thereof against any property of the State of Georgia or any political subdivision  
226 thereof, including the city, nor shall any such bond constitute a charge, lien, or encumbrance,  
227 legal or equitable, upon any such property. All such obligations shall contain on their face  
228 a recital setting forth substantially the provisions of this section. Nothing in this section shall

229 be construed to prohibit the State of Georgia or any political subdivision or agency thereof,  
230 including the city, from obligating itself to pay the amounts required under any contract  
231 entered into with the authority pursuant to Article IX of the Constitution of Georgia or any  
232 successor provision, including from funds received from taxes to be levied and collected for  
233 that purpose to the extent necessary to pay the obligations contractually incurred by the  
234 authority and from any other source.

#### 235 **SECTION 10.**

##### 236 Issuance of bonds or obligations under indentures or resolutions.

237 In the discretion of the authority, any issuance of such revenue bonds, notes, or other  
238 obligations may be secured by a trust indenture by and between the authority and a trustee,  
239 which may be any trust company or bank having the powers of a trust company within or  
240 outside of the State of Georgia. Such trust indenture may pledge or assign fees, tolls, rents  
241 revenues, and earnings to be received by the authority, including the proceeds derived from  
242 the financing, sale, or lease, from time to time, of any project. Either the resolution  
243 providing for the issuance of revenue bonds or other obligations or such trust indenture may  
244 contain such provisions for protecting and enforcing the rights and remedies of the owners  
245 of such bonds or obligations as may be reasonable and proper and not in violation of law,  
246 including covenants setting forth the duties of the authority or any lessee or purchaser in  
247 relation to the acquisition and construction of any project, the maintenance, operation, repair,  
248 and issuance of any project, and the custody, safeguarding, and application of all moneys,  
249 including the proceeds derived from the sale or lease of any project or from the sale of any  
250 such bonds, notes, or other obligations, and may contain provisions concerning the  
251 conditions, if any, upon which additional bonds, notes, or other obligations may be issued,  
252 whether on a parity with or subordinate to any other obligations issued by the authority.  
253 Such indenture or resolution may set forth the rights and remedies of the owners of such  
254 obligations and of the trustee. Such trust indenture may contain such other provisions as the  
255 authority may deem reasonable and proper for the security of the owners of such bonds or  
256 other obligations or otherwise necessary or convenient in connection with the issuance of  
257 such obligations. All expenses incurred in carrying out such trust indenture may be treated  
258 as a part of the cost of maintenance, operation, and repair of the project affected by such  
259 indenture.



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**SECTION 11.**

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Security of the payment of bonds or other obligations.

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The authority may assign or pledge any property or revenues to the payment of the principal of and interest on revenue bonds of the authority as the resolution authorizing the issuance of the bonds or the trust indenture may provide. The use and disposition of such property or revenues assigned to the payment of bonds or other obligations shall be subject to the indenture or resolution authorizing the issuance of such revenue bonds or obligations. Any lien created by the authority for the payment of such bonds or obligations may be a first lien or a subordinate lien as the authority may provide, and any such indenture or resolution may provide, at the option of the authority, for the issuance of additional bonds or other obligations sharing any lien on a parity or subordinate lien basis.

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**SECTION 12.**

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Refunding bonds or obligations.

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The authority is authorized to provide by resolution for the issuance of obligations, whether revenue bonds, notes, or other obligations, for the purpose of refunding any revenue bonds or other obligations issued under the provisions of this Act or under any other provision of Georgia law so long as such bonds or other obligations were issued for a purpose or project for which the authority could issue bonds. The issuance of such refunding bonds or other obligations and all the details thereof, the rights of holders thereof, and the duties of the authority with respect to the same shall be governed by the provisions of this Act insofar as the same may be applicable.

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**SECTION 13.**

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Principal office; venue.

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The principal office of the authority shall be in the city, and the venue of any action against it shall be in Gwinnett County. Any action pertaining to the validation of any bonds issued under the provisions of this Act and for the validation of any contract entered into by the authority shall be brought in the Superior Court of Gwinnett County, and such court shall have exclusive original jurisdiction of such actions. Service upon the authority of any process, subpoena, or summons shall be effected by serving the same personally upon any member of the authority.

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**SECTION 14.**

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Validation of revenue bonds.

292 Revenue bonds of the authority shall be confirmed and validated in accordance with the  
293 procedure set forth in Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the "Revenue Bond  
294 Law," as the same now exists or may hereafter be amended. The petition for validation shall  
295 also make a party defendant to such action the city, if the city has or will contract with the  
296 authority with respect to the project for which bonds are to be issued and are sought to be  
297 validated. The bonds, when validated, and the judgment of validation shall be final and  
298 conclusive with respect to the validity of such bonds against the authority and against all  
299 other persons or entities, regardless of whether such persons or entities were parties to such  
300 validation proceedings.

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**SECTION 15.**

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No impairment of rights.

303 While any of the bonds or other obligations issued by the authority or any interests in  
304 contracts of the authority remain outstanding, the powers, duties, or existence of the authority  
305 or its officers, employees, or agents shall not be diminished or impaired in any manner that  
306 will affect adversely the interest and rights of the holders of such bonds or obligations or  
307 such interests in contracts of the authority. The provisions of this section shall be for the  
308 benefit of the authority and the holders of any such bonds or obligations and interests in  
309 contracts of the authority and, upon the issuance of bonds or obligations or the creation of  
310 interests in contracts of the authority under the provisions of this Act, shall constitute a  
311 contract with the holders of such bonds or obligations or such interests in contracts of the  
312 authority.

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**SECTION 16.**

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Trust funds; permitted investments.

315 All moneys received by the authority pursuant to this Act, whether as proceeds from the sale  
316 of revenue bonds or obligations of the authority, as grants or other contributions, or as  
317 revenues, income, fees, and earnings, shall be deemed to be trust funds to be held and applied  
318 solely as provided in this Act and in such resolutions and trust indentures as may be adopted  
319 and entered into by the authority pursuant to this Act. Any such moneys or funds may be  
320 invested from time to time in such investments as may be permitted under the indenture,  
321 agreement, or resolution establishing the fund or account in which such funds are held, or if

322 not held in such a fund or account, in such investments as would be permitted for  
323 investments of a development authority created under Code Section 36-62-1, et seq., of the  
324 O.C.G.A.

325 **SECTION 17.**

326 Power to set rates, fees, and charges.

327 The authority is authorized to prescribe and fix rates, fees, tolls, rents, and charges and to  
328 revise, from time to time, and collect such revised rates, fees, tolls, rents, and charges for the  
329 services, facilities, or commodities furnished, including leases, concessions, and subleases  
330 of its projects, and to determine the price and terms at and under which its projects may be  
331 sold, leased, or otherwise disposed. The authority may establish in its discretion procedures  
332 for contracting for any work done for the authority or for the acquisition, sale, transfer, or  
333 lease of any property, real or personal, of the authority.

334 **SECTION 18.**

335 Essential governmental function; no taxes or assessments.

336 All property or interests in property owned by the authority shall be public property held and  
337 owned for governmental purposes and shall be exempt from ad valorem taxation. The  
338 exercise of the powers conferred upon the authority hereunder shall constitute an essential  
339 governmental function for a public purpose and the authority shall not be required to pay  
340 taxes or assessments upon any of the property acquired by it or under its jurisdiction, control,  
341 possession, or supervision or upon its activities in the operation and maintenance of property  
342 acquired by it or of buildings acquired or erected by it or any fees, rentals, or other charges  
343 for the use of such property or buildings or other income received by the authority. The tax  
344 exemption herein provided shall not include an exemption from sales and use tax on property  
345 purchased by or for the use of the authority.

346 **SECTION 19.**

347 Immunity of authority and members.

348 The authority shall have the same immunity and exemption from liability for torts and  
349 negligence as the City of Peachtree Corners; and the officers, agents, and employees of the  
350 authority, when in the performance of the work of the authority, shall have the same  
351 immunity and exemption from liability for torts and negligence as the officers, agents, and  
352 employees of the City of Peachtree Corners.

353 **SECTION 20.**

354 Authority property not subject to levy and sale.

355 The property of the authority shall not be subject to levy and sale under legal process.

356 **SECTION 21.**

357 Authority area of operation.

358 The scope of the authority's operations shall be limited to the territory embraced within the  
359 territorial limits of the city, as the same now or may hereafter exist; provided, however, that  
360 nothing in this section shall prevent the authority from contracting with any entity, public or  
361 private, outside of the city with respect to any project located in or outside of the city if the  
362 authority shall determine that entering into such contract is in the best interest of the  
363 authority and in furtherance of its public purposes.

364 **SECTION 22.**

365 Supplemental powers.

366 This Act does not in any way take away from the authority any power which may be  
367 conferred upon it by law but is supplemental thereto.

368 **SECTION 23.**

369 No power to impose taxes.

370 The authority shall not have the right to impose any tax on any person or property.

371 **SECTION 24.**

372 Act to be liberally construed.

373 This Act shall be liberally construed to effect the purposes hereof.

374 **SECTION 25.**

375 Severability of provisions.

376 Should any sentence, clause, phrase, or part of this Act be declared for any reason to be  
377 unconstitutional or invalid, the same shall not affect the remainder of this Act, or any part  
378 hereof, other than the part so held to be invalid, but the remaining provisions of this Act shall

379 remain in full force and effect, and it is the express intention of this Act to enact each  
380 provision of this Act independently of any other provision hereof.

381 **SECTION 26.**

382 Effective date.

383 This Act shall become effective upon its approval by the Governor or upon its becoming law  
384 without such approval.

385 **SECTION 27.**

386 General repealer.

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