Administrative Law

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This Article surveys cases from the Georgia Supreme Court and the Georgia Court of Appeals from June 1, 2015 to May 31, 2016, in which principles of administrative law were a central focus of the case.[1] Exhaustion of administrative remedies will be the first topic discussed, to be followed by standard of review of an agency decision, then on to statutory construction, with sovereign immunity and discretionary appeals to follow, and the article will conclude with a brief review of enactments from the 2016 regular session of the Georgia General Assembly.

I. EXHAUSTION OF ADMINISTRATIVE REMEDIES

The well-established doctrine of exhaustion of administrative remedies continues to prevail as the Georgia Supreme Court rejects trial courts' application of the narrow "futility exception" to the exhaustion requirement. In *Elbert County v. Sweet City Landfill, LLC,*[2] the court held a company seeking permission from Elbert County to operate a solid

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1. For an analysis of Georgia administrative law during the previous survey period, *see* Jennifer B. Alewine, et al., *Administrative Law, Annual Survey of Georgia Law*, 67 MERCER L. REV. 1 (2015).

2. 297 Ga. 429, 774 S.E.2d 658 (2015).

waste landfill had failed to exhaust its administrative remedies when it sought judicial relief before securing a final decision on its Special Use Permit from the County's Board of Commissioners.[3] While recognizing that a party need not exhaust all administrative remedies when doing so would be futile, the court reversed the trial court's holding that the futility exception applied to Sweet City's application for a Special Use Permit to operate a landfill.[4] The futility exception only applies when requiring exhaustion of administrative remedies would result in a decision on the same issue by the same decision-making body, not when a party is simply pessimistic about its odds of success before the administrative body.[5] Since Sweet City never obtained a final decision from the Board of Commissioners on its application for a Special Use Permit, it could not show that it would be futile to seek a decision from the Board before seeking judicial intervention.[6]

Similarly, the Georgia Supreme Court maintained the exhaustion requirement's solid footing in the next case, refusing to carve out another exception to the doctrine. In *Georgia Department of Behavioral Health & Developmental Disabilities v. United Cerebral Palsy of Georgia, Inc.*,[7] a reversal of a Georgia Court of Appeals decision[8] discussed in last year's Article, the Georgia Supreme Court held that an agency's alleged failure to comply with procedural requirements does not permit an aggrieved party to bypass administrative remedial steps.[9] The court emphasized the policies behind the requirement that parties exhaust administrative remedies, noting the expertise administrative agencies and administrative law judges have regarding complex regulatory schemes, as well as the desirability of fast and efficient resolution of procedural defects in administrative proceedings.[10] Distinguishing the facts here from the facts in cases relied upon by the court of appeals, the court found that the plaintiffs made no effort to seek any administrative review prior to filing a lawsuit.[11] While the court of appeals held that the plaintiffs' lack of notice as to the proceedings against them entitled them to bypass administrative remedies, the Georgia Supreme Court refused to create a

3. *Id.* at 433-34, 774 S.E.2d at 663.

4. *Id.* at 433, 436, 774 S.E.2d at 663, 665.

5. *Id.* at 433, 774 S.E.2d at 663.

6. *Id.* at 433-34, 774 S.E.2d at 663.

7. 298 Ga. 779, 784 S.E.2d 781 (2016).

8. United Cerebral Palsy of Ga., Inc. v. Ga. Dep't of Behavioral Health & Developmental Disabilities, 331 Ga. App. 616, 771 S.E.2d 251 (2015).

9. *Ga. Dep't of Behavioral Health*, 298 Ga. at 790, 784 S.E.2d at 789.

10. *Id.* at 789, 784 S.E.2d at 788-89.

11. *Id.* at 791, 784 S.E.2d at 790.

new exception to the exhaustion requirement for procedural errors by an administrative agency and held that the plaintiffs' actual notice required them to proceed through administrative channels.[12] Where an aggrieved party believes a procedural mistake has been made relating to notice, the party should provide the agency with the opportunity to correct the mistake through the administrative review process instead of seeking judicial recourse.[13]

In *RES-GA SCL, LLC v. Stonecrest Land, LLC*,[14] the Georgia Court of Appeals confronted the issue of exhaustion of administrative remedies in the context of a loan dispute and a failed bank. Stonecrest, the development company, had taken out a line of credit with Integrity, the bank. When the bank eventually failed, the Federal Deposit Insurance Corporation (FDIC) demanded that Stonecrest pay on its loan. FDIC issued a notice of closure, and provided a procedure through which entities with claims against Integrity could have those claims resolved. Stonecrest made no claim through this procedure. Following an assignment and a sale of Stonecrest's original debt, RES-GA obtained the rights to collect on the debt, and it sued Stonecrest. Stonecrest raised as an affirmative defense that Integrity breached the agreement to provide advance interest payments, and RES-GA argued Stonecrest's defenses were barred by the exhaustion of administrative remedies requirement in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).[15] The trial court granted summary judgment in favor of RES-GA, and the parties filed cross-appeals.[16]

The court of appeals relied on its opinion in *Gravitt v. Bank of the Ozarks*[17] in holding the trial court lacked jurisdiction to adjudicate Stonecrest's defenses, because FIRREA created a procedure through which claims like Stonecrest's were required to be funneled.[18] The court noted a case from the United States Court of Appeals for the Eleventh Circuit that held affirmative defenses exempt from the exhaustion of remedies requirement,[19] but it pointed out that "simply naming something an affirmative defense does not determine whether a request for relief is a true affirmative defense or is, in fact, a claim or action

12. *Id.* at 790, 784 S.E.2d at 789.

13. *Id.* at 789, 784 S.E.2d at 789.

14. 333 Ga. App. 289, 776 S.E.2d 489 (2015).

15. 12 U.S.C. § 1821 (2012 & Supp. III 2015); *RES-GA SCL, LLC*, 333 Ga. App. at 289-91, 776 S.E.2d at 492-93.

16. *RES-GA SCL, LLC*, 333 Ga. App. at 289, 776 S.E.2d at 492.

17. 326 Ga. App. 461, 756 S.E.2d 695 (2014).

18. *RES-GA SCL, LLC*, 333 Ga. App. at 293, 776 S.E.2d at 494-95.

19. *Id.* at 294-95, 776 S.E.2d at 495 (discussing Am. First Fed., Inc. v. Lake Forest Park, Inc., 198 F.3d 1259 (11th Cir. 1999)).

encompassed by FIRREA. . . ."[20] The court then held Stonecrest's purported affirmative defenses were actually claims that should have been brought under the administrative process provided by FIRREA.[21] Stonecrest's failure to exhaust its administrative remedies therefore barred it from asserting its claims as affirmative defenses to RES-GA's debt collection claim, and the court of appeals affirmed the grant of summary judgment in favor of RES-GA.[22]

II. STANDARD OF REVIEW OF AN AGENCY DECISION

This year, the Georgia Court of Appeals tackled the issue of what exactly constitutes a "final decision" of an administrative agency under Official Code of Georgia Annotated (O.C.G.A.) section 5-6-35(a)(1).[23] Specifically, in *Financial Education Services, Inc. v. State*,[24] the court of appeals decided that an investigative demand issued by the Governor's Office of Consumer Affairs did amount to a final decision by that agency.[25] This holding follows and reaffirms the Georgia Supreme Court's decision in *Tri-State Building & Supply v. Reid*[26] that an "agency's decision to issue an investigative demand is a decision of an administrative agency within the meaning of O.C.G.A. § 5-6-35(a)."[27] In *Tri-State*, the court held that the purposes of O.C.G.A. § 5-6-35 point toward an interpretation of "decision of an administrative agency" as inclusive of the issuance of investigative demands similar to the type Financial Education Services received.[28] Holding that it was bound by the Georgia Supreme Court's interpretation of O.C.G.A. § 5-6-35(a), the court of appeals dismissed Financial Education Service's claim for lack of jurisdiction on the grounds that O.C.G.A. § 5-6-35 required Financial Education Service to file a discretionary, not direct, appeal.[29]

III. STATUTORY CONSTRUCTION

The question of how much deference to give to an agency's interpretation of a statute it is charged with administering was central

20. *RES-GA SCL, LLC*, 333 Ga. App. at 295, 776 S.E.2d at 496.

21. *Id.* at 297-98, 776 S.E.2d at 497.

22. *Id.* at 305, 776 S.E.2d at 502.

23. O.C.G.A. § 5-6-35 (2013).

24. 336 Ga. App. 606, 785 S.E.2d 544 (2016).

25. *Id.* at 606-07, 785 S.E.2d at 545.

26. 251 Ga. 38, 302 S.E.2d 566 (1983).

27. *Fin. Educ. Servs., Inc.*, 336 Ga. App. at 608, 785 S.E.2d at 546 (quoting *Tri-State*, 251 Ga. at 39, 302 S.E.2d at 568).

28. *Tri-State*, 251 Ga. at 39, 302 S.E.2d at 567-68.

29. *Fin. Educ. Servs., Inc.*, 336 Ga. App. at 606-07, 608, 785 S.E.2d at 545, 546.

to a number of Georgia cases this year. First, in *Tibbles v. Teachers Retirement System of Georgia*,[30] the Georgia Supreme Court held that the Teachers Retirement System of Georgia's (the System) interpretation of Georgia's teacher retirement statute should be afforded *Chevron* deference.[31] After first finding that the statute's language was unambiguous, the court held that, even if the statute *was* ambiguous, the System was engaged in legislative rulemaking when it promulgated the statute.[32] As such, the System's interpretation of the statute "would be entitled to deference" so long as the interpretation was reasonable.[33] The court found the System's interpretation in the instant case reasonable and affirmed the trial court's dismissal of the teacher's claim.[34]

Similarly, in *Black v. Bland Farms, LLC*,[35] the Georgia Court of Appeals gave deference to the Georgia Commissioner of Agriculture's interpretation of a Vidalia onion packing date rule.[36] In this case, Bland Farms argued this packing date rule exceeded the Commissioner's authority by changing the shipping date authorized by O.C.G.A. § 2-14-136.[37]

The court rejected this argument, holding that the packing date rule was within the Commissioner's authority to create and was reasonable in light of the language of O.C.G.A. § 2-14-136, empowering the Commissioner to "prescribe rules or regulations which may include, but not necessarily be limited to, quality standards, grades, packing . . . ."[38] Because the packing date rule was within the power of the Commissioner to promulgate and was reasonable in light of the statute, the court deferred to the Commissioner's interpretation and reversed the trial court's grant of Bland Farms' motion for judgment on the pleadings.[39]

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30. 297 Ga. 557, 775 S.E.2d 527 (2015).

31. *Id.* at 563-64, 775 S.E.2d at 532-33; *see* Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, 467 U.S. 837 (1984).

32. *Tibbles*, 297 Ga. At 564-65, 775 S.E.2d at 533-34.

33. *Id.* at 563, 775 S.E.2d at 532.

34. *Id.* at 566, 775 S.E.2d at 534.

35. 332 Ga. App. 653, 774 S.E.2d 722 (2015).

36. *Id.* at 664, 774 S.E.2d at 730.

37. *Id.* at 663, 774 S.E.2d at 729; O.C.G.A. § 2-14-136 (2000 & Supp. 2016).

38. 332 Ga. App. at 663, 664, 774 S.E.2d at 729, 730 (quoting O.C.G.A. § 2-14-133(a) (2000 & Supp. 2016)).

39. *Id.* at 664, 774 S.E.2d at 730.

IV. SOVEREIGN IMMUNITY

In *Rivera v. Washington*,[40] the Georgia Supreme Court heard two consolidated cases that both sought a determination of whether a denial of a claim of sovereign immunity is directly appealable under the collateral order doctrine. The defendants in both cases giving rise to this appeal sought reversals of trial court denials of claims of sovereign immunity, and both argued that the issue of sovereign immunity was collateral to the merits of their respective case and, therefore, directly appealable.[41] In affirming the trial courts' dismissals of the direct appeals, the court overturned its previous decision in *Board of Regents of the University System of Georgia v. Canas*[42] and held that "[t]he scheme for appellate interlocutory review is legislative in nature, and provides ample opportunity for review in appropriate cases when a defense of immunity is raised."[43] The supreme court held that *Canas* had overlooked precedent in *Turner v. Giles*,[44] noted that the General Assembly had established the state's scheme allowing for interlocutory appeals of sovereign immunity claims, and determined that the defendants here were not entitled to direct appeal.[45]

In *Georgia Department of Labor v. RTT Associates, Inc.*,[46] the Georgia Supreme Court held that the Georgia Court of Appeals erred when it applied common law principles "regarding the ability of parties to modify or waive contract provisions by their conduct or manifest intent" to the issue of whether the Department of Labor had waived its sovereign immunity by its course of conduct.[47] In this case, the Department of Labor contracted with RTT to develop computer software. The parties executed a written contract providing for an expiration date as well as a clause stating that any amendments to the contract must be in a writing fully executed by both parties. Even after the expiration date of the contract, the Department of Labor requested several changes to the software design, but no such changes were executed by the parties.[48] In April 2013, the Department of Labor notified RTT that it was in breach of the contract "for its failure to deliver a functional product that

40. 298 Ga. 770, 784 S.E.2d 775 (2016).
41. *Id.* at 770, 771-72, 784 S.E.2d at 776, 776-77.
42. 295 Ga. App. 505, 672 S.E.2d 471 (2009).
43. *Rivera*, 298 Ga. at 778, 784 S.E.2d at 780.
44. 264 Ga. 812, 450 S.E.2d 421 (1994).
45. *Rivera*, 298 Ga. at 775, 778, 784 S.E.2d at 779-80.
46. 299 Ga. 78, 786 S.E.2d 840 (2016).
47. *Id.* at 85, 786 S.E.2d at 846.
48. *Id.* at 78-79, 786 S.E.2d at 841-42.

complied with the contract requirements."[49] RTT filed suit against the Department of Labor and sought damages for breach of contract.[50]

The trial court concluded RTT had failed to prove the contract had been either extended or amended by a writing executed by both parties as required under the contract, and, as such, the Department of Labor had not waived sovereign immunity beyond the required completion date of the contract.[51] RTT appealed and the court of appeals reversed the trial court's grant of summary judgment in favor of the Department of Labor, and found that "evidence of the parties' course of conduct created a question of fact as to whether the parties waived or extended the required completion date as well as the provision that the contract could be amended only in writing."[52] The Georgia Supreme Court reversed the court of appeals and upheld the order of the trial court holding that "[g]eneral rules of contract law that might otherwise support a claim for breach of contract damages between private parties . . . will not support a claim against the state or one of its agencies if the contract is not in writing so as to trigger the waiver of sovereign immunity."[53]

The Georgia Supreme Court also affirmed that sovereign immunity protects state entities from declaratory judgment actions in *Olvera v. University System of Georgia's Board of Regents*.[54] In this case, a group of college students who are not U.S. citizens but are grant beneficiaries of the Deferred Action for Childhood Arrivals program filed a declaratory judgment action against the Board of Regents seeking a declaration that they were entitled to in-state tuition.[55] The court rejected the students' argument that sovereign immunity was waived by Georgia's Administrative Procedure Act (APA),[56] in part because the challenged tuition residency requirements were not passed pursuant to the APA, and the students had pointed to no other source of law containing explicit waiver of the Board's immunity.[57]

V. DISCRETIONARY APPEALS

In each case evaluating discretionary versus direct appeals procedures in this year's Survey, the Georgia Court of Appeals looked to previously

49. *Id.* at 79, 786 S.E.2d at 842.
50. *Id.* at 80, 786 S.E.2d at 842.
51. *Id.*
52. *Id.*
53. *Id.* at 82, 88, 786 S.E.2d at 844, 848.
54. 298 Ga. 425, 782 S.E.2d 436 (2016).
55. *Id.* at 425, 782 S.E.2d at 437.
56. O.C.G.A. § 50-13-1 (2013).
57. *Olvera*, 298 Ga. at 427-28, 782 S.E.2d at 438.

established Georgia Supreme Court precedent. In *Schumacher v. City of Roswell*,[58] the court of appeals dismissed a discretionary appeal where the appellants appealed directly rather than by filing a required discretionary application under O.C.G.A. § 5-6-35(a)(1).[59] In that case, property owners brought an action seeking an injunction and declaratory relief to challenge the City's approval of a zoning ordinance that plaintiffs believed violated their due process rights, violated the Roswell city charter, and harmed them directly through the rezoning of their residential properties.[60] After the trial court granted judgment on the pleadings for the City on all of the plaintiffs' claims, the plaintiffs filed a direct appeal.[61] The court of appeals followed the Georgia Supreme Court's decision in *Trend Development Corp. v. Douglas County*,[62] which required dismissal of appeals not filed by discretionary application when a party challenges a local government's decision, such as zoning.[63] The court declined to draw a distinction between cases where a party initially appeals directly to the superior court from a zoning decision and cases where a party collaterally attacks the decision by filing an action in superior court for declaratory judgment or injunctive relief.[64] Finally, the court held that where administrative zoning proceedings are open to all members of the public, the "non-party" exception to filing a discretionary application does not apply.[65] Therefore, the court of appeals held that the plaintiffs' appeal was "'an appeal from the decision of a court reviewing a decision of an administrative agency within the meaning of O.C.G.A. § 5-6-35(a)(1)' that had to proceed by discretionary application."[66]

In *Financial Education Services, Inc. v. State*,[67] the Georgia Court of Appeals dismissed for lack of jurisdiction a corporation's direct appeal of a trial court's order compelling it to comply with an investigative demand issued by the Governor's Office of Consumer Affairs under the Fair Business Practice Act.[68] In that case, the Governor's Office of Consumer Affairs received complaints that Financial Education Services was

58. 337 Ga. App. 268, 787 S.E.2d 254 (2016).

59. *Id.* at 268, 787 S.E.2d at 254.

60. *Id.* at 268-69, 787 S.E.2d at 254-55.

61. *Id.* at 269, 787 S.E.2d at 255.

62. 259 Ga. 425, 383 S.E.2d 123 (1989).

63. *Schumacher*, 337 Ga. App. at 270, 787 S.E.2d at 255-56.

64. *Id.* at 272, 787 S.E.2d at 256-57.

65. *Id.* at 273, 787 S.E.2d at 257.

66. *Id.* (quoting Fulton Cty. v. Congregation of Anshei Chesed, 275 Ga. 856, 857, 572 S.E.2d 530, 531 (2002)).

67. 336 Ga. App. 606, 785 S.E.2d 544 (2016).

68. O.C.G.A. § 10-1-403(a) (2009 & Supp. 2016); *Fin. Educ. Servs., Inc.*, 336 Ga. App. at 606, 785 S.E.2d at 545.

illegally selling credit repair services and issued an investigative demand under the Fair Business Practice Act seeking information and documents. Financial Education Services submitted what the Governor's Office of Consumer Affairs deemed to be an incomplete response and directed the company to comply by a certain deadline.[69] Instead of complying, Financial Education Services submitted a formal response and asserted various defenses, including "that the information . . . requested encompassed protected trade secrets."[70] In response, the attorney general filed an application for an order compelling compliance with the investigative demand, which was granted by the trial court. Financial Education Services then filed a direct appeal, which the attorney general moved to dismiss on the grounds that the company was required to follow the discretionary appeal procedure set out in O.C.G.A. § 5-6-35.[71]

Citing to Georgia Supreme Court precedent in *Tri-State Building & Supply v. Reid*,[72] the court of appeals held that "an 'agency's decision to issue an investigative demand is a decision of an administrative agency within the meaning of O.C.G.A. § 5-6-35(a).'"[73] Financial Education Services argued that *Tri-State* was wrongly decided "in that it ignores the rationale behind O.C.G.A. § 5-6-35(a)(1): that once two tribunals have already heard a matter, a party must apply for an appeal."[74] However, the court of appeals noted it had no authority to "overrule or modify a decision made by the Supreme Court of Georgia."[75] The court held it was bound by *Tri-State* and that "the issuance of an investigative demand is an administrative agency decision subject to the discretionary appeal procedure of O.C.G.A. § 5-6-35(a)(1), even if two tribunals have not adjudicated the matter."[76] Financial Education Services also argued that the discretionary appeal statute did not apply because the administrator of the Fair Business Practices Act issued the demand, and that office does not constitute a state agency.[77] The court of appeals dismantled this argument by citing to additional precedent from the Georgia Supreme Court holding that "[a]n administrative agency is a governmental

69. *Fin. Educ. Servs., Inc.*, 336 Ga. App. at 607, 785 S.E.2d at 545-46.

70. *Id.* at 607, 785 S.E.2d at 546.

71. *Id.*

72. 251 Ga. 38, 302 S.E.2d 566 (1983).

73. *Fin. Educ. Servs., Inc.*, 336 Ga. App. at 608, 785 S.E.2d at 546 (quoting *Tri-State*, 251 Ga. at 39, 302 S.E.2d at 568).

74. *Id.*

75. *Id.* at 608, 785 S.E.2d at 546-47.

76. *Id.*

77. *Id.* at 608, 785 S.E.2d at 547.

authority, other than a court and other than a legislative body, which affects the rights of private parties through either adjudication or rulemaking."[78]

VI. RECENT LEGISLATION

This year saw a consistent number of enactments with major changes to administrative agencies during the Georgia General Assembly's regular session. The following are the more prominent measures that have been enacted:

1. In one of the more controversial bills of the session, a new Judicial Qualifications Commission was created.[79]

2. The Georgia Driver's Education Commission has been transferred from the Department of Driver Services to the Governor's Office of Highway Safety.[80]

3. The State Commission on Narcotic Treatment Programs has been created.[81]

4. The State Charter Schools Commission is now responsible for initial and annual training requirements for boards of charter schools.[82]

5. Administrative law judges are now subject to the Georgia Code of Judicial Conduct.[83]

6. A Georgia Palliative Care and Quality of Life Advisory Council and a statewide Palliative Care Consumer and Professional Information and

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78. *Id.* at 608-09, 785 S.E.2d at 547 (quoting Dep't of Transp. v. Del-Cook Timber Co., 248 Ga. 734, 739, 285 S.E.2d 913, 917 (1982)).

79. Ga. S. Bill 262, Reg. Sess. (2016) (amending O.C.G.A. §§ 15-1-8 (2015 & Supp. 2016), 15-6-11 (2015 & Supp. 2016), 15-10-53 (2015 & Supp. 2016), 15-12-70 (2015 & Supp. 2016), and 15-12-135 (2015 & Supp. 2016), and enacting O.C.G.A. § 15-7-5 (Supp. 2016)).

80. Ga. H.R. Bill 806, Reg. Sess. (2016) (amending O.C.G.A. §§ 15-21-172 (2015 & Supp. 2016), 15-21-179 (2015 & Supp. 2016), 35-2-101 (2012 & Supp. 2016), 40-5-32 (2014 & Supp. 2016), 40-5-53 (2014 & Supp. 2016), 40-5-100 (2014 & Supp. 2016), 40-5-150 (2014 & Supp. 2016), and 40-5-172 (2014 & Supp. 2016), repealing O.C.G.A. §§ 35-2-56 (2012 & Supp. 2016) and 35-2-123 (2012 & Supp. 2016), and enacting O.C.G.A. § 35-2-15 (Supp. 2016)).

81. Ga. S. Bill 402, Reg. Sess. (2016) (enacting O.C.G.A. § 26-5-21 (Supp. 2016)).

82. Ga. H.R. Bill 895, Reg. Sess. (2016) (amending O.C.G.A. §§ 20-2-2072 (2016), 20-2-2083 (2016), and 20-2-2084 (2016), and enacting O.C.G.A. §§ 20-2-2073 (2016) and 20-2-2074 (2016)).

83. Ga. H.R. Bill 818, Reg. Sess. (2016) (amending O.C.G.A. §§ 34-9-47 (2008 & Supp. 2016), 34-9-121 (2008 & Supp. 2016), 34-9-261 (2008 & Supp. 2016), 34-9-262 (2008 & Supp. 2016), 34-9-265 (2008 & Supp. 2016), 34-9-380 to 34-9-382 (2008 & Supp. 2016), and 34-9-384 to 34-9-388 (2008 & Supp. 2016)).

Education Program within the Department of Community Health have been created.[84]

7. The Commissioner of Juvenile Justice and the Commissioner of Natural Resources have been added as voting members of the Georgia Peace Officer Standards and Training Council.[85]

8. Local governing bodies are now required to provide certain entities with a certification of compliance with O.C.G.A. § 36-80-23,[86] regarding the prohibition on immigration sanctuary policies by local governments, as a condition of funding.[87]

9. The Georgia Emergency Management Agency has been renamed the Georgia Emergency Management and Homeland Security Agency.[88]

10. The Military Spouses and Veterans Licensure Act has been created and requires professional licensing boards and other boards to adopt rules and regulations implementing a process by which military spouses and transitioning service members may qualify for temporary licenses, licenses by endorsement, expedited licenses, or a combination thereof for each profession, business, or trade for which a license is issued.[89]

11. The Georgia Professional Regulation Reform Act has been enacted in response to *N.C. State Board of Dental Examiners v. FTC,* 135 S. Ct. 1101 (2015), in which the Supreme Court of the United States established a new standard for determining whether state professional licensing boards and board members are entitled to immunity for federal antitrust violations.[90]

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84. Ga. H.R. Bill 509, Reg. Sess. (2016) (amending O.C.G.A. §§ 31-7-190 to 31-7-208 (2012 & Supp. 2016)).

85. Ga. S. Bill 279, Reg. Sess. (2016) (amending O.C.G.A § 35-8-3 (2012 & Supp. 2016)).

86. O.C.G.A. § 36-80-23 (2012 & Supp. 2016).

87. Ga. S. Bill 269, Reg. Sess. (2016) (amending O.C.G.A. §§ 36-80-23 (2012 & Supp. 2016) and 50-36-4 (2013 & Supp. 2016)).

88. Ga. S. Bill 416, Reg. Sess. (2016) (amending O.C.G.A. §§ 12-5-30.4 (Supp. 2016), 12-5-204 (2012 & Supp. 2016), 20-2-1185 (Supp. 2016), 31-12-2.1 (2012 & Supp. 2016), 38-3-20 (2012 & Supp. 2016), 38-3-22 (2012 & Supp. 2016), 38-3-22.1 (2012 & Supp. 2016), 38-3-27 (2012 & Supp. 2016), 38-3-50 (2012 & Supp. 2016), 38-3-57 (2012 & Supp. 2016), 38-3-140 (2012 & Supp. 2016), 38-3-141 (2012 & Supp. 2016), 38-3-142 (2012 & Supp. 2016), 38-3-143(2012 & Supp. 2016), 38-3-144 (2012 & Supp. 2016), 38-3-151 (2012 & Supp. 2016), 40-1-23 (2014 & Supp. 2016), 46-5-122 (2004 & Supp. 2016), 48-2-100 (Supp. 2016), 48-7-29.4 (2013 & Supp. 2016), 48-8-13 (2013 & Supp. 2016), and 51-1-50 (Supp. 2016), and enacting of O.C.G.A. §§ 35-3-200 to 35-3-204 (Supp. 2016)).

89. Ga. H.R. Bill 821, Reg. Sess. (2016) (enacting O.C.G.A. § 43-1-34 (2016)).

90. Ga. H.R. Bill 952, Reg. Sess. (2016) (enacting O.C.G.A. §§ 43-1C-1 to 43-1C-3 (2016)).

12. The Georgia Lactation Consultant Practice Act has been created, which requires licensure of lactation consultants.[91]

13. The oversight of services for the aging has been transferred from the Department of Human Services to the Department of Community Health.[92]

14. The Georgia Film and Television Trail Act has been created and tasks the Department of Economic Development with creating a Georgia Film and Television Trail to provide the interested public with location sites of various film and television productions created in Georgia.[93]

15. The Accountability, Change Management, and Process Improvement Act of 2016 has been enacted to require certain state entities to develop and issue a business case and change management plan relating to the implementation of certain projections.[94]

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91. Ga. H.R. Bill 649, Reg. Sess. (2016) (enacting O.C.G.A. §§ 43-22A-1 to 43-22A-13 (2016)).

92. Ga. H.R. Bill 1085, Reg. Sess. (2016) (amending O.C.G.A. §§ 49-6-60 to 49-6-63 (2013 & Supp. 2016)).

93. Ga. S. Bill 417, Reg. Sess. (2016) (amending O.C.G.A. § 45-7-21 (2016) and enacting O.C.G.A. §§ 50-7-110 (Supp. 2016), 50-7-111 (Supp. 2016), 50-7-112 (Supp. 2016), 50-7-113 (Supp. 2016), 50-7-114 (Supp. 2016), 50-7-115 (Supp. 2016), 50-7-116 (Supp. 2016), and 50-7-117 (Supp. 2016)).

94. Ga. H.R. Bill 676, Reg. Sess. (2016) (enacting O.C.G.A. § 50-29-3 (Supp. 2016)).