

House Bill 637 (AS PASSED HOUSE AND SENATE)

By: Representatives Hawkins of the 27<sup>th</sup>, Dubnik of the 29<sup>th</sup>, Dunahoo of the 30<sup>th</sup>, and Barr of the 103<sup>rd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To create the Lula Development Authority; to provide a short title; to provide definitions; to  
2 provide for the powers of the authority; to provide for members of the authority; to provide  
3 a development area; to provide for revenue bonds and other obligations of the authority; to  
4 recite constitutional authority; to provide for effect on other authorities; to provide for related  
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**  
8 Short title of Act.

9 This Act shall be known and may be cited as the "Lula Development Authority Act."

10 **SECTION 2.**  
11 Definitions.

12 As used in this Act:

13 (1) "Authority" shall mean the Lula Development Authority created pursuant to Section  
14 3 of this Act.

15 (2) "Cost of the project" or "cost of any project" shall mean and shall include: all costs  
16 of acquisition (by purchase or otherwise), demolition, funds for the creation of a  
17 revolving loan fund, construction, assembly, installation, modification, renovation, or  
18 rehabilitation incurred in connection with any project or any part of any project; all costs  
19 of real property, fixtures, or personal property used in or in connection with or necessary  
20 for any project or for any facilities related thereto, including, but not limited to, the cost  
21 of all land, estates for years, easements, rights, improvements, water rights, connections  
22 for utility services, fees, franchises, permits, approvals, licenses, and certificates; the cost  
23 of securing any such franchises, permits, approvals, licenses, or certificates and the cost

24 of preparation of any application therefor; the cost of all fixtures, machinery, equipment,  
25 furniture, and other property used in or in connection with or necessary for any project;  
26 all financing charges and loan fees and all interest on revenue bonds, notes, or other  
27 obligations of an authority which accrues or is paid prior to and during the period of  
28 construction of a project and during such additional period as the authority may  
29 reasonably determine to be necessary to place such project in operation; all costs of  
30 engineering, surveying, architectural, and legal services and all expenses incurred by  
31 engineers, surveyors, architects, and attorneys in connection with any project; all  
32 expenses for inspection of any project; all fees of fiscal agents, paying agents, and  
33 trustees for bondholders under any trust agreement, indenture of trust, or similar  
34 instrument or agreement; all expenses incurred by any such fiscal agents, paying agents,  
35 and trustees; all other costs and expenses incurred relative to the issuance of any revenue  
36 bonds, notes, or other obligations for any project; all fees of any type charged by an  
37 authority in connection with any project; all expenses of or incident to determining the  
38 feasibility or practicability of any project; all costs of plans and specifications for any  
39 project; all costs of title insurance and examinations of title with respect to any project;  
40 repayment of any loans made for the advance payment of any part of any of the foregoing  
41 costs, including interest thereon and any other expenses of such loans; administrative  
42 expenses of the authority and such other expenses as may be necessary or incident to any  
43 project or the financing thereof or the placing of any project in operation; and a fund or  
44 funds for the creation of a debt service reserve, a renewal and replacement reserve, or  
45 such other funds or reserves as the authority may approve with respect to the financing  
46 and operation of any project and as may be authorized by any bond resolution, trust  
47 agreement, indenture of trust, or similar instrument or agreement pursuant to the  
48 provisions of which the issuance of any revenue bonds, notes, or other obligations of the  
49 authority may be authorized. Any cost, obligation, or expense incurred for any of the  
50 foregoing purposes shall be a part of the cost of the project and may be paid or  
51 reimbursed as such out of proceeds of revenue bonds, notes, or other obligations issued  
52 by the authority.

53 (3) "Development area" means the geographical area of operations of the authority as  
54 described in Section 5 of this Act.

55 (4) "Project" shall mean the acquisition, demolition, construction, installation,  
56 modification, renovation, or rehabilitation of land, interests in land, buildings, structures,  
57 facilities, or other improvements located or to be located within the development area and  
58 the acquisition, installation, modification, renovation, rehabilitation, or furnishing of  
59 fixtures, machinery, equipment, furniture, or other property of any nature whatsoever  
60 used on, in, or in connection with any such land, interest in land, building, structure,

61 facility, or other improvement, all for the essential public purpose of the development of  
 62 trade, commerce, industry, and employment opportunities in the development area. A  
 63 project may be for any industrial, commercial, residential, business, office, parking,  
 64 public, or other use, including the administration and operation of a revolving loan fund,  
 65 provided that a majority of the members of the authority determine, by a resolution duly  
 66 adopted, that the project and such use thereof would further the public purpose of this  
 67 Act.

68 (5) "Revenue bonds" or "bonds" shall mean any bonds issued by the authority that are  
 69 authorized to be issued under the Constitution and laws of the State of Georgia, including  
 70 refunding bonds and revenue bonds issued pursuant to Article 3 of Chapter 82 of Title  
 71 36 of the O.C.G.A., the "Revenue Bond Law," but not including notes or other  
 72 obligations of an authority.

### 73 SECTION 3.

#### 74 Creation and power of authority.

75 (a) There is created a public body corporate and politic known as the Lula Development  
 76 Authority.

77 (b) The authority shall have all of the powers necessary or convenient to carry out and  
 78 effectuate the purposes and provisions of this Act, including, but without limiting the  
 79 generality of the foregoing, the power to:

80 (1) Sue and be sued;

81 (2) Adopt and amend a corporate seal;

82 (3) Make and execute contracts, agreements, and other instruments necessary or  
 83 convenient to exercise the powers of the authority or to further the public purpose for  
 84 which the authority is created, including, but not limited to, contracts for construction of  
 85 projects, leases of projects, contracts for sale of projects, agreements for loans to finance  
 86 projects, and contracts with respect to the use of projects;

87 (4) Acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real and  
 88 personal property of every kind and character or any interest therein in furtherance of the  
 89 public purpose of the authority;

90 (5) Finance, by loan, grant, lease, or otherwise, construct, demolish, erect, assemble,  
 91 purchase, acquire, own, repair, remodel, renovate, rehabilitate, modify, maintain, extend,  
 92 improve, install, sell, equip, expand, add to, operate, or manage projects and to pay the  
 93 cost of any project from the proceeds of revenue bonds, notes, or other obligations of the  
 94 authority or any other funds of the authority, or from any contributions or loans by

95 persons, corporations, partnerships (limited or general), or other entities, all of which the  
96 authority is authorized to receive and accept and use;

97 (6) Borrow money to further or carry out its public purpose and to execute revenue  
98 bonds; notes; other obligations; leases; trust indentures; trust agreements; agreements for  
99 the sale of its revenue bonds, notes, or other obligations; loan agreements; mortgages;  
100 deeds to secure debt; trust deeds; security agreements; assignments; and such other  
101 agreements or instruments as may be necessary or desirable, in the judgment of the  
102 authority, to evidence and to provide security for such borrowing;

103 (7) Issue revenue bonds, notes, or other obligations of the authority and use the proceeds  
104 thereof to pay all or any part of the cost of any project and otherwise to further or carry  
105 out the public purpose of the authority and to pay all costs of the authority incident to, or  
106 necessary and appropriate to, furthering or carrying out such purpose;

107 (8) Make application directly or indirectly to any federal, state, county, or municipal  
108 government or agency or to any other source, public or private, for loans, grants,  
109 guarantees, or other financial assistance in furtherance of the authority's public purpose  
110 and to accept and use the same upon such terms and conditions as are prescribed by such  
111 federal, state, county, or municipal government or agency or other source;

112 (9) Enter into agreements with the federal government or any agency thereof to use the  
113 facilities or the services of the federal government or any agency thereof in order to  
114 further or carry out the public purpose of the authority;

115 (10) Contract for any period not exceeding 50 years with the State of Georgia, state  
116 institutions, or any city, town, municipality, or county of the state for the use by the  
117 authority of any facilities or services of the state or any such state institution, city, town,  
118 municipality, or county or for the use by any state institution or any city, town,  
119 municipality, or county of any facilities or services of the authority, provided that such  
120 contracts shall deal with such activities and transactions as the authority and any such  
121 political subdivision with which the authority contracts are by law authorized to  
122 undertake;

123 (11) Extend credit or make loans to any person, corporation, partnership (limited or  
124 general), or other entity for the costs of any project or any part of the costs of any project,  
125 which credit or loans may be evidenced or secured by loan agreements, notes, mortgages,  
126 deeds to secure debt, trust deeds, security agreements, assignments, or other instruments  
127 or by rentals, revenues, fees, or charges, upon such terms and conditions as the authority  
128 shall determine to be reasonable in connection with such extension of credit or loans,  
129 including provision for the establishment and maintenance of reserve funds, and, in the  
130 exercise of powers granted in connection with any project, the authority shall have the  
131 right and power to require the inclusion in any such loan agreement, note, mortgage, deed

132 to secure debt, trust deed, security agreement, assignment, or other instrument of such  
133 provisions or requirements for guarantee of any obligations, insurance, construction, use,  
134 operation, maintenance, and financing of a project and such other terms and conditions  
135 as the authority may deem necessary or desirable;

136 (12) As security for repayment of any revenue bonds, notes, or other obligations of the  
137 authority, pledge, mortgage, convey, assign, hypothecate, or otherwise encumber any  
138 property of the authority (including but not limited to real property, fixtures, personal  
139 property, and revenues or other funds) and to execute any lease; trust indenture; trust  
140 agreement; agreement for the sale of the authority's revenue bonds, notes, or other  
141 obligations; loan agreement; mortgage; deed to secure debt; trust deed; security  
142 agreement; assignment; or other agreement or instrument as may be necessary or  
143 desirable in the judgment of the authority to secure any such revenue bonds, notes, or  
144 other obligations, which instruments or agreements may provide for foreclosure or forced  
145 sale of any property of the authority upon default in any obligation of the authority, either  
146 in payment of principal, premium, if any, or interest or in the performance of any term  
147 or condition contained in any such agreement or instrument. The State of Georgia on  
148 behalf of itself and each county, municipal corporation, political subdivision, or taxing  
149 district therein waives any right it or such county, municipal corporation, political  
150 subdivision, or taxing district may have to prevent the forced sale or foreclosure of any  
151 property of the authority upon such default and agrees that any agreement or instrument  
152 encumbering such property may be foreclosed in accordance with law and the terms  
153 thereof;

154 (13) Receive and use the proceeds of any tax levied by a county or municipal corporation  
155 to pay the costs of any project or for any other purpose for which the authority may use  
156 its own funds pursuant to this Act;

157 (14) Receive and administer gifts, grants, and devises of money and property of any kind  
158 and to administer trusts;

159 (15) Use any real property, personal property, or fixtures or any interest therein, to rent  
160 or lease such property to or from others or make contracts with respect to the use thereof,  
161 or to sell, lease, exchange, transfer, assign, pledge, or otherwise dispose of or grant  
162 options for any such property in any manner as it deems to the best advantage of the  
163 authority and the public purpose thereof;

164 (16) Acquire, accept, or retain equitable interests, security interests, or other interests in  
165 any real property, personal property, or fixtures by loan agreement, note, mortgage, deed  
166 to secure debt, trust deed, security agreement, assignment, pledge, conveyance, contract,  
167 lien, loan agreement, or other consensual transfer in order to secure the repayment of any  
168 monies loaned or credit extended by the authority;

- 169 (17) Appoint, select, and employ engineers, surveyors, architects, urban or city planners,  
 170 developers, fiscal agents, attorneys, and others and to fix their compensation and pay their  
 171 expenses;
- 172 (18) Encourage and promote the improvement and revitalization of the development area  
 173 and to make, contract for, or otherwise cause to be made long-range plans or proposals  
 174 for the development area in cooperation with the county within which the development  
 175 area is located;
- 176 (19) Adopt bylaws governing the conduct of business by the authority, the election and  
 177 duties of officers of the authority, and other matters which the authority determines to  
 178 deal within its bylaws;
- 179 (20) Exercise any power granted by the laws of the State of Georgia to public or private  
 180 corporations which is not in conflict with the public purpose of the authority; and
- 181 (21) Do all things necessary or convenient to carry out the powers conferred by this Act.
- 182 (c) The powers enumerated in subsection (b) of this section are cumulative with and in  
 183 addition to those enumerated elsewhere in this Act, and no such power limits or restricts  
 184 any other power of the authority.

#### 185 **SECTION 4.**

#### 186 **Members of authority; disqualifications.**

- 187 (a) The authority shall be composed of seven members as follows:
- 188 (1) One member shall be the mayor of the City of Lula;
- 189 (2) One member shall be a member of the governing authority of Hall County;
- 190 (3) Three members shall be either a taxpayer residing in the City of Lula, a taxpayer  
 191 residing in Hall County who owns or operates a business located within the city, or a  
 192 taxpayer residing in Hall County who owns or operates a business located within either  
 193 the water or sewer service area of the City of Lula, appointed by the governing authority  
 194 of the City of Lula;
- 195 (4) One member shall be either a taxpayer residing in the portion of Hall County within  
 196 either the water or sewer service area of the City of Lula or a person who owns or  
 197 operates a business located within either the water or sewer service area of the City of  
 198 Lula, appointed by the governing authority of Hall County; and
- 199 (5) One member shall be either a taxpayer residing in Hall County or a person who owns  
 200 or operates a business located within Hall County, appointed by the governing authority  
 201 of the City of Lula.
- 202 (b) Terms of office of members of the authority shall be for four years and until their  
 203 successors are appointed and qualified, except that two of the initial members appointed

204 by the governing authority of the City of Lula pursuant to paragraph (3) of subsection (a)  
 205 of this section shall serve initial terms of office of two years and until their successors are  
 206 appointed and qualified. Thereafter, terms of office of all members of the authority shall  
 207 be for four years and until their successors are appointed and qualified. Any vacancy of  
 208 office shall be filled in like manner as the original appointment, and the person appointed  
 209 to fill such vacancy shall serve for the remainder of the unexpired term and until a  
 210 successor is appointed and qualified.

211 (c) No member of the authority shall be disqualified from serving on the authority because  
 212 of any pecuniary interest in a project as defined in Section 2 of this Act, but the fact of such  
 213 interest shall be disclosed by such member and recorded on the minutes of the authority.  
 214 The member shall abstain from voting on any project in which he or she has such pecuniary  
 215 interest.

216 (d) The members of the authority shall elect from their membership officers to serve terms  
 217 to be determined by a subsequent organizing resolution adopted by the board, and such  
 218 officers shall include a chairperson, vice chairperson, and secretary-treasurer.

219 **SECTION 5.**

220 Development area; change of boundaries.

221 The development area defined in this Act shall be all of that tract or parcel of land within the  
 222 City of Lula, as well as those tracts or parcels of land in unincorporated Hall County within  
 223 the City of Lula water service area and those tracts or parcels of land in unincorporated Hall  
 224 County within the City of Lula sewer service area on July 1, 2019.

225 **SECTION 6.**

226 Revenue bonds.

227 Revenue bonds, notes, or other obligations issued by an authority shall be paid solely from  
 228 the property (including but not limited to real property, fixtures, personal property, revenues,  
 229 or other funds) pledged, mortgaged, conveyed, assigned, hypothecated, or otherwise  
 230 encumbered to secure or to pay such bonds, notes, or other obligations. All revenue bonds,  
 231 notes, and other obligations shall be authorized by resolution of the authority and adopted  
 232 by a majority vote of the directors of the authority at a regular or special meeting. Such  
 233 revenue bonds, notes, or other obligations shall bear such date or dates; shall mature at such  
 234 time or times not more than 40 years from their respective dates; shall bear interest at such  
 235 rate or rates (which may be fixed or may fluctuate or otherwise change from time to time);  
 236 shall be subject to redemption on such terms; and shall contain such other terms, provisions,

237 covenants, assignments, and conditions as the resolution authorizing the issuance of such  
 238 bonds, notes, or other obligations may permit or provide. The terms, provisions, covenants,  
 239 assignments, and conditions contained in or provided or permitted by any resolution of the  
 240 authority authorizing the issuance of such revenue bonds, notes, or other obligations shall  
 241 bind the directors of the authority then in office and their successors. The authority shall  
 242 have power from time to time and whenever it deems expedient to refund any bonds by the  
 243 issuance of new bonds, whether the bonds to be refunded have or have not matured, and may  
 244 issue bonds partly to refund bonds then outstanding and partly for any other purpose  
 245 permitted under this Act. The refunding bonds may be exchanged for the bonds to be  
 246 refunded with such cash adjustments as may be agreed upon or may be sold and the proceeds  
 247 applied to the purchase or redemption of the bonds to be refunded. There shall be no  
 248 limitation upon the amount of revenue bonds, notes, or other obligations which the authority  
 249 may issue. Any limitations with respect to interest rates or any maximum interest rate or  
 250 rates found in the Revenue Bond Law (Ga. L. 1937, p. 761), as now or hereafter amended,  
 251 the usury laws of the State of Georgia, or any other laws of the State of Georgia shall not  
 252 apply to revenue bonds, notes, or other obligations of an authority.

253

#### **SECTION 7.**

254

Provisions and obligations; limitations and procedures.

255 (a) Subject to the limitations and procedures provided by this section, the agreements or  
 256 instruments executed by the authority may contain such provisions not inconsistent with  
 257 law as shall be determined by the board of directors of the authority.

258 (b) The proceeds derived from the sale of all bonds, notes, and other obligations issued by  
 259 the authority shall be held and used for the ultimate purpose of paying, directly or  
 260 indirectly as permitted in this Act, all or part of the cost of any project or for the purpose  
 261 of refunding any bonds, notes, or other obligations issued in accordance with the provisions  
 262 of this Act.

263 (c) Issuance by an authority of one or more series of bonds, notes, or other obligations for  
 264 one or more purposes shall not preclude it from issuing other bonds, notes, or other  
 265 obligations in connection with the same project or with any other projects, but the  
 266 proceeding wherein any subsequent bonds, notes, or other obligations shall be issued shall  
 267 recognize and protect any prior loan agreement, mortgage, deed to secure debt, trust deed,  
 268 security agreement, or other agreement or instrument made for any prior issue of bonds,  
 269 notes, or other obligations unless in the resolution authorizing such prior issue the right is  
 270 expressly reserved to the authority to issue subsequent bonds, notes, or other obligations  
 271 on a parity with such prior issue.



272 (d) The authority shall have the power and is authorized, whenever bonds of the authority  
273 shall have been validated as provided in this Act, to issue from time to time its notes in  
274 anticipation of such bonds as validated and to renew from time to time any such notes by  
275 the issuance of new notes, whether the notes to be renewed have or have not matured. The  
276 authority may issue such bond anticipation notes only to provide funds which would  
277 otherwise be provided by the issuance of the bonds as validated. Such notes may be  
278 authorized, sold, executed, and delivered in the same manner as bonds. As with its bonds,  
279 the authority may sell such notes at public or private sale. Any resolution or resolutions  
280 authorizing notes of the authority or any issue thereof may contain any provisions which  
281 the authority is authorized to include in any resolution or resolutions authorizing bonds of  
282 the authority or any issue thereof, and the authority may include in any notes any terms,  
283 covenants, or conditions which the authority is authorized to include in any bonds.  
284 Validation of such bonds shall be a condition precedent to the issuance of such notes, but  
285 it shall not be required that such notes be judicially validated. Bond anticipation notes shall  
286 not be issued in an amount exceeding the par value of the bonds in anticipation of which  
287 they are to be issued.

288 (e) All bonds issued by the authority under this Act shall be issued and validated under and  
289 in accordance with the Revenue Bond Law, as heretofore and hereafter amended, except  
290 as provided in this Act, provided that notes and other obligations of the authority may, but  
291 shall not be required to, be so validated.

292 (f) Bonds issued by an authority may be in such form, either coupon or fully registered or  
293 both, and may be subject to exchangeability and transferability provisions as the bond  
294 resolution authorizing the issuance of such bonds or any indenture or trust agreement may  
295 provide.

296 (g) Bonds shall bear a certificate of validation. The signature of the clerk of the superior  
297 court of the judicial circuit in which the issuing authority is located may be made on the  
298 certificate of validation of such bonds by facsimile or by manual execution stating the date  
299 on which such bonds were validated, and such entry shall be original evidence of the fact  
300 of judgment and shall be received as original evidence in any court in this state.

301 (h) In lieu of specifying the rate or rates of interest which bonds to be issued by an  
302 authority are to bear, the notice to the district attorney or Attorney General; the notice to  
303 the public of the time, place, and date of the validation hearing; and the petition and  
304 complaint for validation may state that the bonds when issued will bear interest at a rate not  
305 exceeding a maximum per annum rate of interest (which may be fixed or may fluctuate or  
306 otherwise change from time to time) specified in such notices and petition and complaint  
307 or that, in the event the bonds are to bear different rates of interest for different maturity  
308 dates, that none of such rates will exceed the maximum rate (which may be fixed or may

309 fluctuate or otherwise change from time to time) so specified; provided, however, that  
310 nothing contained herein shall be construed as prohibiting or restricting the right of the  
311 authority to sell such bonds at a discount, even if in doing so the effective interest cost  
312 resulting therefrom would exceed the maximum per annum interest rate specified in such  
313 notices and in the petition and complaint.

314 **SECTION 8.**

315 Purpose and declaration of need.

316 The revitalization and redevelopment of the development area as defined in this Act develop  
317 and promote trade, commerce, industry, and employment opportunities for the public good  
318 and general welfare and promote the general welfare of the state by creating a climate  
319 favorable to the location of new industry, trade, and commerce and the development of  
320 existing industry, trade, and commerce within the City of Lula water and sewer service area  
321 and the State of Georgia. Revitalization and redevelopment of the development area by  
322 financing projects under the Act will develop and promote, for the public good and general  
323 welfare, trade, commerce, industry, and employment opportunities and will promote the  
324 general welfare of the state. It is therefore in the public interest and is vital to the public  
325 welfare of the people of Georgia, and it is declared to be the public purpose of this Act to so  
326 revitalize and redevelop the development area. No bonds, notes, or other obligations (except  
327 refunding bonds) shall be issued by the authority hereunder unless its board of directors  
328 adopts a resolution finding that the project for which such bonds, notes, or other obligations  
329 are to be issued will promote the foregoing objectives.

330 **SECTION 9.**

331 Construction of Act.

332 The provisions of this Act shall be liberally construed to effect the purpose hereof. The offer,  
333 sale, or issuance of bonds, notes, or other obligations by any authority shall not be subject  
334 to regulation under Georgia laws regulating the sale of securities, as heretofore and hereafter  
335 amended. No notice, proceeding, or publication except those required by this Act shall be  
336 necessary to the performance of any act authorized by this Act nor shall any such act be  
337 subject to referendum.

338 **SECTION 10.**

339 Bonds, notes, and other obligations not to constitute public debt.

340 No bonds, notes, or other obligations of and no indebtedness incurred by the authority shall  
341 constitute an indebtedness or obligation of the State of Georgia or any county, municipal  
342 corporation, or political subdivision thereof nor shall any act of the authority in any manner  
343 constitute or result in the creation of an indebtedness of the state or any such county,  
344 municipal corporation, or political subdivision. No holder or holders of any such bonds,  
345 notes, or other obligations shall ever have the right to compel any exercise of the taxing  
346 power of the state or any county, municipal corporation, or political subdivision thereof or  
347 to enforce the payment thereof against the state or any such county, municipal corporation,  
348 or political subdivision.

349 **SECTION 11.**

350 Constitutional authority for Act; tax exemption of authorities.

351 (a) This Act is enacted pursuant to Article IX, Section VI, Paragraph III of the Constitution  
352 of Georgia.

353 (b) The obligations, properties, activities, and income of the authority shall be subject to  
354 such tax exemptions as may be provided by general law.

355 **SECTION 12.**

356 Effect on other authorities.

357 This Act shall not affect any other authority now or hereafter existing under general or local  
358 constitutional amendment or general or local law.

359 **SECTION 13.**

360 Repealer.

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