

EXHIBIT D

FOREWORD

At the 1981 extraordinary session, the General Assembly of Georgia enacted the statutory portion of the Official Code of Georgia Annotated, the first complete and official recodification of the laws of Georgia since the Code of 1933. Since the adoption of the Code of 1933, there has been a significant increase in both the number and complexity of the laws of Georgia. State government has grown in size and has undergone several significant reorganizations. State government is operating under its fourth state constitution since 1933.

In recognition of the many changes in the laws and the government of the State of Georgia, the General Assembly created the Code Revision Study Committee in 1976. The committee was composed of the following members:

Honorable Wayne Snow, Jr., Chairman
Honorable Howard T. Overby, Vice Chairman
Honorable Hugh Brown McNatt, Secretary
Honorable Peter L. Banks
Honorable Roy Barnes
Honorable Robert W. Crenshaw, Jr.
Honorable Roger Johnson
Honorable Randolph C. Karrh
Honorable J. Beverly Langford
Honorable Preston B. Lewis, Jr.
Honorable Lewis R. Slaton
Honorable Hugh D. Sosebee
Honorable J. Douglas Stewart
Honorable Albert W. Thompson
Honorable Larry Walker

The committee was directed to conduct a thorough study of the subject of code revision, including the need therefor, the time involved, the cost thereof, and all other matters relative thereto. In December, 1976, the committee submitted its report to the General Assembly. In its findings the committee stated: "The time for a complete, bulk revision and recodification of this state's statutory law is long overdue and must be accomplished as quickly as possible. Any attempt to accomplish code revision on a title-by-title basis is not a practicable or feasible solution to the problem. The most economical and satisfactory method to accomplish code revision within the State of Georgia is through a negotiated contract with a publishing firm possessing the necessary expertise and manpower to accomplish a complete recodification as quickly as possible."

The committee then recommended that the General Assembly create a Code Revision Commission and vest in the commission the responsibility of

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selecting an appropriate firm to accomplish the code revision project and to resolve the myriad of details connected with the code revision project.

To carry out the recommendations of the Code Revision Study Committee, the General Assembly created the Code Revision Commission at the 1977 session and gave the commission the powers necessary to carry out the code revision project. The commission is composed of the Lieutenant Governor and four members of the Senate, the Speaker of the House of Representatives and four additional members of the House of Representatives, and five members appointed by the president of the State Bar of Georgia, one of whom is a judge or senior judge of the superior courts and one of whom is a district attorney. The members of the commission as of the date of enactment of the Official Code of Georgia Annotated were:

Honorable Wayne Snow, Jr., Chairman
Honorable Thomas B. Murphy
Honorable Larry Walker
Honorable Randolph C. Karrh
Honorable J. C. Daugherty
Honorable Zell Miller
Honorable Roy Barnes
Honorable J. Nathan Deal
Honorable Bill Littlefield
Honorable Charles Wessels
Honorable R. W. Crenshaw, Jr.
Honorable Hugh Brown McNatt
Honorable Lewis R. Slaton
Honorable Hugh D. Sosebee
Honorable J. Douglas Stewart

In addition to the members listed above, Honorable Peter L. Banks, Honorable Howard T. Overby, Honorable J. Beverly Langford, and Honorable Albert W. Thompson served as members of the commission during the recodification process.

The Office of Legislative Council of the General Assembly provided staff for the commission. Terry A. McKenzie, Betty J. Clements, Martin Moody Wilson, G. Joseph Scheuer, Dolores McDonald, and Patterson Harp served as members of the Code Revision Division of the Office of Legislative Counsel and as the staff of the commission. In addition, Frank H. Edwards, Legislative Counsel, Gloria Anderson, and the other employees of the Office of Legislative Counsel provided valuable assistance in the preparation of the Official Code of Georgia Annotated.

Following presentations by five law publishers, the commission selected The Michie Company to prepare and publish the Official Code of Georgia Annotated on behalf of the State of Georgia. Following the execution of a contract between the commission and The Michie Company, the commis-

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sion and staff developed the uniform numbering system and rules of style which are used in the new Code. The commission adopted an arrangement of laws consisting of 53 Code titles. A statute copy consisting of the Code of 1933, all Georgia laws enacted since 1933, and those laws which were inadvertently omitted from the Code of 1933 but which are still in effect was prepared and arranged into the 53 titles. The editorial staff of The Michie Company, under the direction of David P. Harriman, Stephen C. Willard, James J. Watson, and J. Gerald Kail, performed a title-by-title examination of the statute copy. Numerous memoranda were prepared and sent to the commission for each title. The questions and proposals for changes contained in the memoranda were examined by the staff of the commission, proposed responses were developed, and the questions and proposals were then considered and resolved by the commission. Over 100,000 questions were resolved in this manner. In addition to the questions contained in the memoranda, grammatical changes, the correction of typographical errors, the renumbering of 1933 Code sections and portions thereof, the correction of cross-references within text, and changes necessitated by rules of style were marked directly onto the statute copy by the editors and were examined and approved by the commission and its staff. Upon completion of this process, each title was typeset in a page-proof format and was again examined completely by the editors and the commission's staff. The page proofs were proofread several times and every memoranda question and response was compared with the page proofs to ensure that the editorial work was correct. Throughout this process, every effort was made to avoid changes in the substance of the law. In those instances in which the commission felt that a substantive change had to be made, a separate bill was introduced in the General Assembly to accomplish the change. These bills were enacted in the 1980 and 1981 regular sessions of the General Assembly. Upon completion of the editorial process, a manuscript entitled the *Code of Georgia 1981 Legislative Edition* was prepared, presented to the General Assembly, and enacted at the 1981 extraordinary session of the General Assembly. Annotations, indexes, editorial notes, and other materials have been added to that manuscript to produce the Official Code of Georgia Annotated, the first official Code to be published under authority of the State of Georgia since the Code of 1933.

In reviewing the memoranda and page proofs, the commission and its staff received the assistance of several hundred people. The Code Revision Overview Committee of the State Bar of Georgia and a number of committees, sections, and individual members of the bar reviewed memoranda or page proofs and provided valuable assistance to the commission. In addition, each department of state government and a number of organizations assigned people to work with the commission in the recodification project. This project could not have been completed without the expertise provided by these individuals and the Code Revision Commission wishes to express its gratitude for their assistance.

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The adoption and publication of the Official Code of Georgia Annotated represents years of painstaking effort by the General Assembly of Georgia, the Code Revision Commission, the Office of Legislative Counsel, the State Bar of Georgia, and The Michie Company. It has been the goal of all who have contributed their time, labor, and expertise to this project to produce a complete, thorough, accurate, and usable Code for the State of Georgia and its citizens. We sincerely hope and believe that this goal has been accomplished.

Code Revision Commission
Honorable Wayne Snow, Jr.
Chairman, 1981
Honorable Larry Walker
Chairman, 1990

HISTORY OF THE CODIFICATION OF THE LAWS OF GEORGIA

The development of the codification of the laws of Georgia has been divided by one commentator into three separate stages — compilation, digest, and code.

The compilation stage began with the provisions of the Constitution of 1798 that the body of laws of the state should be “revised, digested and arranged under proper heads.” Pursuant to this provision, a compilation of laws was published by Robert Watkins in 1801, followed the next year by a compilation prepared by Horatio Marbury and William H. Crawford. Both compilations covered much the same field, specifically, the years 1755 to 1800. Later, pursuant to an Act of 1809 providing for decennial compilations, three separate compilations were prepared. The first, covering the years 1800 to 1810, was prepared by Augustin Smith Clayton. The second, covering the years 1810 to 1819, was prepared by Lucius Q. C. Lamar. The third, covering the years 1819 to 1829, was prepared by William H. Dawson. These volumes encompassed all laws and resolutions passed during the periods in question, regardless of the public and general or private and local nature of the laws and resolutions included and regardless of whether they were in force.

The next stage of development, the digest period, began with an Act of 1819 directing the preparation of a digest of laws of the state. The digest was to embrace all Acts and resolutions passed prior to the 1819 Session as well as those Acts and resolutions passed during that session. The Act directing the preparation of the digest contemplated a condensed volume which would exclude repealed laws and laws of a private and local nature. Pursuant to this legislative authorization, Oliver H. Prince prepared a digest volume which was approved by the Governor in January 1822 and which was revised in 1837. The 1837 revision of Prince’s Digest contained an index of local laws. Pursuant to a resolution of the General Assembly passed December 23, 1843, William A. Hotchkiss prepared a digest of the statutory law of Georgia. This work was the subject of a state subscription upon its completion in 1845. In 1851, Thomas R. R. Cobb published another legislatively authorized digest which was based on the arrangement and plan developed by Prince. Both Prince’s Digest and Cobb’s Digest contained an alphabetical listing of titles and a chronological arrangement of legislative Acts and resolutions. Next, Howell Cobb prepared “A Compilation of the General and Public Statutes of the State of Georgia.” This work was subscribed to by the state in 1859.

The next and most innovative step in the evolution of Georgia codified law was the Georgia Code of 1863. In 1858, a bill was introduced in the General Assembly proposing the codification of Georgia law. The resulting enactment provided for the formation of a three-man commission to

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prepare for the people of Georgia a code “which should, as near as practicable, embrace, in a condensed form, the laws of Georgia, whether derived from the common law, the constitutions, the statutes of the state, the decisions of the supreme court, or the statutes of England in force in the State.” This was to be the first code in the United States giving statutory effect to common law and equitable principles.

The commissioners, David Irwin, Thomas R. R. Cobb, and Richard H. Clark, took it upon themselves to add and delete laws in a manner consistent with the existing system of law, with an eye toward meeting existing needs and in anticipation of future needs. In doing so, the commissioners adopted and incorporated suggestions, alterations, modifications, enlargements, and restrictions in the laws of the state. However, the taking of such liberties was ratified when the Code was adopted by the General Assembly.

Because the commissioners omitted historical annotations, the sources of some of the laws contained in the Code of 1863, particularly the part dealing with “Political and Public Organization of the State,” written by Clark, remain undisclosed. Other parts of the Code are clearly traceable to two prior sources, the Judiciary Act of 1799 and the Penal Code of 1833, which were carried almost wholly intact into Parts 3 and 4 of the Code.

Although a number of codes have followed the Code of 1863, few alterations in its form have been made. Some changes have been made for purposes of clarity, but the substance of the original Code has generally been preserved. The succeeding revisions have continued the process initiated by the Code of 1863 of codifying common law principles as they have developed.

Subsequent official Codes of Georgia were commissioned and adopted as follows:

Code of 1868: Committee appointed to examine revised Code, Ga. L. 1865-66, p. 315. Governor authorized to subscribe for copies for use by state, Ga. L. 1866, p. 223. Code ratified by Constitution of 1868, Art. XI, Sec. III.

Code of 1873: Governor authorized to subscribe for copies of revised Code upon favorable report by Attorney General, Ga. L. 1872, p. 524.

Code of 1882: Governor authorized to direct Attorney General to examine revised Code, Ga. L. 1880-81, p. 676. Publication of Code authorized by General Assembly, Ga. L. 1880-81, p. 140.

Code of 1895: Authorization given for appointment of Code commissioners, Ga. L. 1893, p. 119. Code adopted, Ga. L. 1895, p. 98.

Code of 1910: Code commission created, Ga. L. 1909, p. 111. Code adopted, Ga. L. 1910, p. 48.

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Code of 1933: Code commission created, Ga. L. 1929, p. 1487. Code adopted, Ga. L. 1933, p. 31; Ga. L. 1935, p. 84.