The Senate Committee on Rules offered the following substitute to HB 757:

A BILL TO BE ENTITLED
AN ACT

To protect religious freedoms; to amend Chapter 3 of Title 19 of the Official Code of Georgia Annotated, relating to marriage generally, so as to provide that religious officials shall not be required to perform marriage ceremonies, perform rites, or administer sacraments in violation of their legal right to free exercise of religion; to amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, so as to change certain provisions relating to days of rest for employees of business and industry; to protect property owners which are religious organizations against infringement of religious freedom; to define a term; to amend Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to prohibit adverse action by government against a person or faith-based organization who believes, speaks, or acts in accordance with certain sincerely held religious beliefs regarding marriage; to provide for definitions; to provide for the granting of relief; to provide for construction and application; to provide for waiver of sovereign immunity under certain circumstances; to provide for a short title; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

Chapter 3 of Title 19 of the Official Code of Georgia Annotated, relating to marriage generally, is amended by adding a new Code section to read as follows:

"19-3-11.

(a) No minister of the gospel or cleric or religious practitioner ordained or authorized to solemnize marriages, perform rites, or administer sacraments according to the usages of the denomination, when acting in his or her official religious capacity, shall be required to solemnize any marriage, perform any rite, or administer any sacrament in violation of his
or her right to free exercise of religion under the Constitution of this state or of the United States.

(b) A refusal by an ordained or authorized person pursuant to subsection (a) of this Code section shall not give rise to a civil claim or cause of action against such person or result in any state action to penalize, withhold benefits from, or discriminate against such person based on such refusal.

SECTION 1-2.

Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, is amended by revising Code Section 10-1-573, relating to day of rest for employees of business and industry, as follows:

"10-1-573.

(a) Any business or industry which operates on either of the two rest days (Saturday or Sunday) and employs those whose habitual day of worship has been chosen by the employer as a day of work shall make all reasonable accommodations to the religious, social, and physical needs of such employees so that those employees may enjoy the same benefits as employees in other occupations.

(b) No business or industry shall be required by ordinance or resolution of any county, municipality, or consolidated government to operate on either of the two rest days (Saturday or Sunday)."

SECTION 1-3.

Said chapter is further amended by adding a new article to read as follows:

"ARTICLE 35

10-1-1000.

(a) As used in this Code section, the term 'religious organization' means a church, a religious school, an association or convention of churches, a convention mission agency, or an integrated auxiliary of a church or convention or association of churches, when such entity is qualified as an exempt religious organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(b) No religious organization shall be required to rent, lease, or otherwise grant permission for property to be used by another person for an event which is objectionable to such religious organization.

(c) A refusal by a religious organization pursuant to subsection (b) of this Code section shall not give rise to a civil claim or cause of action against such religious organization or
an employee thereof or result in any state action to penalize, withhold benefits from, or discriminate against the religious organization or employee based on such refusal."

PART II

SECTION 2-1.

This part shall be known and may be cited as the "First Amendment Defense Act of Georgia."

SECTION 2-2.

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by adding a new chapter to read as follows:

'CHAPTER 15A

50-15A-1.

As used in this chapter, the term:

(1) 'Adverse action' means any action to:

(A) Alter in any way state tax treatment of an exemption from taxation under state law;

(B) Cause any tax, penalty, or payment to be assessed against a person or faith-based organization or deny, delay, or revoke an exemption from taxation under state law;

(C) Disallow a deduction for state tax purposes of any charitable contribution made to or by a person or faith-based organization;

(D) Deny, withhold, reduce, exclude, terminate, reprimand, censure, or otherwise make unavailable any government grant, contract, subcontract, cooperative agreement, loan, guarantee, license, certification, scholarship, accreditation, employment, or other similar position or status from or to a person or faith-based organization;

(E) Deny, withhold, reduce, exclude, terminate, or otherwise make unavailable any public benefit from or to a person or faith-based organization, including for purposes of this chapter admission to, equal treatment in, or eligibility for a degree from any educational program at any educational facility administered by a government; or

(F) Deny, withhold, reduce, exclude, terminate, condition, or otherwise make unavailable access to any speech forum (whether a traditional, limited, or nonpublic forum) administered by a government, including access to education facilities available for use by student or community organizations.
(2) 'Faith-based organization' means any organization or other legal entity whose governing documents or mission statement expressly acknowledges a religious belief or purpose.

(3) 'Government' means the state or any local subdivision of the state or public instrumentality or public corporate body created by or under authority of state law, including but not limited to the executive, legislative, and judicial branches and every department, agency, board, bureau, office, commission, authority, or similar body thereof; municipalities; counties; school districts; special taxing districts; conservation districts; authorities; and any other state or local public instrumentality or corporation.

(4) 'Person' means any natural person.

(5) 'Public benefit' shall have the same meaning as set forth in Code Section 50-36-1.


(a) Government shall not take any adverse action against a person or faith-based organization wholly or partially on the basis that such person or faith-based organization believes, speaks, or acts in accordance with a sincerely held religious belief regarding lawful marriage between two people, including the belief that marriage should only be between a man and a woman or that sexual relations are properly reserved to such a union.

(b) A person or faith-based organization may assert a violation of this chapter as a claim or defense in a judicial, agency, or other proceeding and obtain a declaratory judgment or injunctive relief against a government.

(c) Notwithstanding any other provision of law, an action under this chapter may be commenced, and relief may be granted, in a court of competent jurisdiction without regard to whether the person or faith-based organization commencing the action has sought or exhausted available administrative remedies.

(d) The Attorney General may bring an action for a declaratory judgment or injunctive relief for any violation of this chapter.

(e) When an aggrieved person or faith-based organization prevails in an action pursuant to this Code section, the court may award reasonable attorney's fees and expenses of litigation.

(f) No person or faith-based organization having a claim against a government under this chapter shall bring any action against such government upon such claim without first giving notice of the claim to such government, in writing, by certified mail or statutory overnight delivery, at least 30 days prior to filing such action, setting forth the particular adverse action alleged to have been taken by the government against such person or faith-based organization.
For purposes of this chapter, government shall consider accredited, licensed, or certified any person or faith-based organization that would have been accredited, licensed, or certified by a nongovernmental agency but for a determination by the agency against such person or faith-based organization wholly or partially on the basis that the person or faith-based organization believes, speaks, or acts in accordance with a sincerely held religious belief regarding lawful marriage between two people, including that marriage should only be between a man and a woman or that sexual relations are properly reserved to such a union.

(a) This chapter shall be construed in favor of a broad protection of free exercise of religious beliefs to the maximum extent permitted by the terms of this chapter, the United States Constitution, and the Constitution of this state.

(b) Nothing in this chapter shall be construed to narrow the meaning or application of any other law of this state protecting free exercise of religious beliefs.

(c) Any other provisions of this chapter notwithstanding, nothing in this chapter shall be applied to afford any protection or relief to a public officer or employee who fails or refuses to perform his or her official duties."

Said title is further amended by adding a new Code section to Article 2 of Chapter 21, relating to state tort claims, to read as follows:

"The defense of sovereign immunity is waived as to any claim, counterclaim, cross-claim, or third-party claim brought in the courts of this state by an aggrieved person or faith-based organization seeking a declaratory judgment, injunctive relief, or reasonable attorney's fees and expenses of litigation against the state or any political subdivision thereof as provided for in Chapter 15A of this title. In any such case, the applicable provisions of Chapter 15A of this title shall control to the extent of any conflict with the provisions of this article."

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.
SECTION 3-2.

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