

Senate Bill 46

By: Senators Thomas of the 2nd and Johnson of the 1st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated,
2 relating to dispossessory proceedings, so as to change certain time limits; to change the time
3 within which the tenant must file an answer; to change the provisions relating to defenses and
4 counterclaims; to change the provisions relating to tenders of rents owed and costs; to change
5 the period for payments pursuant to court orders; to change the provisions relating to tenants
6 remaining in possession; to change the provisions relating to payments into court; to change
7 certain provisions relating to writs of possession and their effective dates; to change the
8 provisions relating to appeals, the filing thereof, and supplementing the record; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Article 3 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to
13 dispossessory proceedings, is amended by striking subsection (b) of Code Section 44-7-51,
14 relating to issuance of summons, service, time for answer, and defenses and counterclaims,
15 and inserting in its place the following:

16 "(b) The summons served on the defendant pursuant to subsection (a) of this Code section
17 shall command and require the tenant to answer either orally or in writing within ~~seven~~ five
18 days from the date of the actual service unless the ~~seventh~~ fifth day is a Saturday, a Sunday,
19 or a legal holiday, in which case the answer may be made on the next day which is not a
20 Saturday, a Sunday, or a legal holiday. If the answer is oral, the substance thereof shall be
21 endorsed on the dispossessory affidavit. The answer may contain any legal ~~or equitable~~
22 defense or counterclaim. The landlord need not appear on the date of the tenant's response.
23 The last possible date to answer shall be stated on the summons."

SECTION 4.

Said article is further amended by striking subsection (a) of Code Section 44-7-54, relating to payment of rent and utility payments into court, issuance of a writ upon failure to pay, and disposition of funds, and inserting in its place the following:

"(a) In any case where the issue of the right of possession cannot be finally determined within ~~two weeks~~ five days from the date of service of the copy of the summons and the copy of the affidavit, the tenant shall be required to pay into the registry of the trial court:

(1) All rent and utility payments which are the responsibility of the tenant payable to the landlord under terms of the lease which are due and become due after the issuance of the dispossessory warrant, said rent and utility payments to be paid as such become due. If the landlord and the tenant disagree as to the amount of rent, either or both of them may submit to the court any written rental contract for the purpose of establishing the amount of rent to be paid into the registry of the court. If the amount of rent is in controversy and no written rental agreement exists between the tenant and landlord, the court shall require the amount of rent to be a sum equal to the last previous rental payment made by the tenant and accepted by the landlord without written objection; and

(2) All rent and utility payments which are the responsibility of the tenant payable to the landlord under terms of the lease allegedly owed prior to the issuance of the dispossessory warrant; provided, however, that, in lieu of such payment, the tenant shall be allowed to submit to the court a receipt indicating that payment has been made to the landlord. In the event that the amount of rent is in controversy, the court shall determine the amount of rent to be paid into court in the same manner as provided in paragraph (1) of this subsection."

SECTION 5.

Said article is further amended by striking subsection (a) of Code Section 44-7-55, relating to judgment, writ of possession, the landlord's liability for wrongful conduct, and distribution of funds paid into court, and inserting in its place the following:

"(a) If, on the trial of the case, the judgment is against the tenant, judgment shall be entered against the tenant for all rents due and for any other claim relating to the dispute. The court shall issue a writ of possession, both of execution for the judgment amount and a writ to be effective at the expiration of ~~seven~~ five days after the date such judgment was entered, except as otherwise provided in Code Section 44-7-56."

SECTION 6.

Said article is further amended by striking Code Section 44-7-56, relating to appeal and possession and payment of rent pending appeal, and inserting in its place the following:

1 "44-7-56.
2 Any judgment by the trial court shall be appealable pursuant to Chapters 2, 3, 6, and 7 of
3 Title 5, provided that any such appeal shall be filed within ~~seven~~ five days of the date such
4 judgment was entered and provided, further, that, after the notice of appeal is filed with the
5 clerk of the trial court, the clerk shall immediately notify the trial judge of the notice of
6 appeal and the trial judge may, within ~~15~~ ten days, supplement the record with findings of
7 fact and conclusions of law which will be considered as a part of the order of the judge in
8 that case. If the judgment of the trial court is against the tenant and the tenant appeals this
9 judgment, the court may upon motion of the landlord and upon good cause shown order the
10 tenant to pay into the registry of the court all sums found by the trial court to be due for
11 rent in order to remain in possession of the premises. The tenant shall also be required to
12 pay all future rent as it becomes due into the registry of the trial court pursuant to paragraph
13 (1) of subsection (a) of Code Section 44-7-54 until the issue has been finally determined
14 on appeal."

15 **SECTION 7.**

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