

**ADOPTED**

1 Senators Clay of the 37th and Hamrick of the 30th offered the following amendment:

2 Amend the Senate Health and Human Services Committee substitute to HB 1028 by inserting  
3 after the semicolon on line 10 of page 1 the following:

4 "to amend Title 9 of the Official Code of Georgia Annotated, relating to civil practice, so  
5 as to change certain provisions relating to actions against certain codefendants residing in  
6 different counties; to provide for an effective date and applicability;"

7 By inserting between lines 27 and 28 of page 16 the following:

8 **"SECTION 1.1.**

9 Title 9 of the Official Code of Georgia Annotated, relating to civil practice, is amended by  
10 striking Code Section 9-10-31, relating to actions against certain codefendants residing in  
11 different counties, and inserting in lieu thereof the following:

12 '9-10-31.

13 (a) The General Assembly finds that Paragraph IV of Section 2 of Article VI of the  
14 Georgia Constitution permits a trial and entry of judgment against a resident of Georgia in  
15 a county other than the county of the defendant's residence only if the Georgia resident  
16 defendant is a joint obligor, joint tort-feasor, joint promisor, copartner, or joint trespasser  
17 and therefore this Code section shall apply to all pending actions filed on or after July 1,  
18 1999.

19 (b) Joint or joint and several tort-feasors, obligors, or promisors, or joint contractors or  
20 copartners, residing in different counties, may be subject to an action as such in the same  
21 action in any county in which one or more of the defendants reside. ~~If, however, the court~~  
22 ~~determines prior to the commencement of trial that:~~ who are joint or joint and several  
23 tort-feasors, obligors, or promisors, or joint contractors or copartners reside.

24 (1) ~~The plaintiff has brought the action in bad faith against all defendants residing in the~~  
25 ~~county in which the action is brought; or~~

26 (2) ~~As a matter of law, no defendant residing in the county in which the action is brought~~  
27 ~~is a proper party, the action shall be transferred to the county and court which the plaintiff~~  
28 ~~elects in which venue is proper. The burden of proof on the issue of venue shall be on the~~  
29 ~~party claiming improper venue by a preponderance of evidence.~~

30 (b)(c) If all defendants who reside in the county in which an action is pending are  
31 discharged from liability before ~~the commencement of trial~~ or upon the return of a verdict  
32 by the jury or the court hearing the case without a jury, a nonresident defendant may  
33 require that the case be transferred to a county and court in which venue would otherwise

1 be proper. If venue would be proper in more than one county, the plaintiff may elect from  
2 among the counties in which venue is proper the county and the court in which the action  
3 shall proceed.

4 ~~(c) If all defendants who reside in the county in which the action is pending are discharged~~  
5 ~~from liability after the commencement of trial, the case may be transferred to a county and~~  
6 ~~court in which venue would otherwise lie only if all parties consent to such transfer.~~

7 ~~(d) For purposes of this Code section, trial shall be deemed to have commenced upon the~~  
8 ~~jury being sworn or, in the instance of a trial without a jury, upon the first witness being~~  
9 ~~sworn.~~

10 ~~(e)~~(d) Nothing in this Code section shall be deemed to alter or amend the pleading  
11 requirements of Chapter 11 of this title relating to the filing of complaints or answers.

12 ~~(f) This Code section shall apply to actions filed on or after July 1, 1999."~~

13 By designating the material on line 29 of page 16 as subsection (a) and adding the following  
14 between lines 31 and 32 of page 16:

15 "(b) Section 1.1 of this Act shall become effective upon its approval by the Governor or  
16 upon its becoming law without such approval."