

The House Special Committee on Civil Justice Reform offers the following substitute to SB 19:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 9-11-23 of the Official Code of Georgia Annotated, relating to class
2 actions, so as to provide for procedures, conditions, and limitations on certification of class
3 actions; to provide for appellate procedures relating to class actions certification; to provide
4 for related matters; to provide an effective date and applicability; to repeal conflicting laws;
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 9-11-23 of the Official Code of Georgia Annotated, relating to class actions,
9 is amended by striking subsection (f), and inserting in lieu thereof the following:

10 ~~"(f) The appropriate appellate court may in its discretion permit an appeal from an order~~
11 ~~of a trial court granting or denying class action certification under this Code section if~~
12 ~~application is made to it within ten days after entry of the order. An appeal does not stay~~
13 ~~proceedings in the trial court unless the trial judge or the appellate court so orders.~~

14 (1) After the commencement of an action in which claims or defenses are purported to
15 be asserted on behalf of or against a class, the court shall hold a conference among all
16 named parties to the action for the purpose of establishing a schedule for any discovery
17 germane to the issue of whether the requested class should or should not be certified. At
18 this conference, the court shall set a date for a hearing on the issue of class certification.
19 Except for good cause shown, such hearing may not be set sooner than 90 days nor later
20 than 180 days after the date on which the court issues its scheduling order pursuant to the
21 conference. Evidence may be presented by affidavit, provided the parties have an
22 opportunity to cross-examine affiants as to such testimony offered by affidavit.

23 (2) Except for good cause shown, the court shall stay all discovery directed solely to the
24 merits of the claims or defenses in the action until the court has issued its written decision
25 regarding certification of the class.

1 (3) When deciding whether a requested class is to be certified, the court shall enter a
2 written order addressing whether the factors required by this Code section for
3 certification of a class have been met and specifying the findings of fact and conclusions
4 of law on which the court has based its decision with regard to whether each such factor
5 has been established. In so doing, the court may treat a factor as having been established
6 if all parties to the action have so stipulated on the record.

7 (4) Nothing in this Code section shall affect, or be construed to affect, any provision of
8 Code Section 9-11-12 or Code Section 9-11-56.

9 (g) A court's order certifying a class or refusing to certify a class shall be appealable in the
10 same manner as a final order to the appellate court which would otherwise have jurisdiction
11 over the appeal from a final order in the action. The appellate courts shall expedite
12 resolution of any appeals taken under this Code section. Such appeal may only be filed
13 within 30 days of the order certifying or refusing to certify the class. During the pendency
14 of any such appeal, the action in the trial court shall be stayed in all respects."

15 SECTION 2.

16 This Act shall become effective upon its approval by the Governor or upon its becoming law
17 without such approval and shall apply to all cases pending on that effective date in which the
18 trial court has not yet certified the case as a class action and to all cases filed on or after that
19 effective date.

20 SECTION 3.

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