

House Bill 958 (COMMITTEE SUBSTITUTE)

By: Representatives Rice of the 51st, Lindsey of the 54th, Mumford of the 95th, Coleman of the 97th, Casas of the 103rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 10 of Title 15 of the Official Code of Georgia Annotated,
2 relating to civil proceedings in magistrate court, so as to clarify the appeal procedure for
3 certain judgments; to provide for additional information in statements of claim; to revise the
4 procedures for applying to vacate a judgment; to revise the requirements for use of
5 postjudgment interrogatories; to provide for related matters; to repeal conflicting laws; and
6 for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 3 of Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to
10 civil proceedings in magistrate court, is amended by revising paragraph (2) of subsection (b)
11 of Code Section 15-10-41, relating to no jury trials in magistrate court, as follows:

12 "(2) No appeal shall lie from a default judgment or dismissal for want of prosecution
13 after a nonappearance of a party for trial. Review, including review of a denial of a
14 postjudgment motion to vacate a judgment, shall be by certiorari to the state court of that
15 county or to the superior court of that county."

16 **SECTION 2.**

17 Said article is further amended by revising subsections (a) and (g) of Code Section 15-10-43,
18 relating to statement of claim, as follows:

19 "(a) Actions shall be commenced by the filing of a statement of claim, including the last
20 known address of the defendant, in concise form and free from technicalities. The plaintiff
21 or his or her agent shall sign and verify the statement of claim by oath or affirmation. At
22 the request of any individual, the judge or clerk may prepare the statement of claim and
23 other papers required to be filed in an action. The statement of claim shall include a brief
24 statement of the claim giving the defendant reasonable notice of the basis for each claim

1 contained in the statement of claim, reasonable notice of when each claim occurred, and
2 the address at which the plaintiff desires to receive the notice of hearing."

3 "(g) Notwithstanding the provisions of Code Section 15-10-42, the magistrate court may
4 grant relief from a judgment under the same circumstances as the state court may grant
5 such relief. Requests for relief from judgments pursuant to this Code section in the
6 magistrate court shall be by filing a ~~new action pursuant to this Code section~~ written
7 motion which sets forth the issues with reasonable specificity. The procedure shall then be
8 the same as in other cases except the court may assess costs as seem just."

9 **SECTION 3.**

10 Said article is further amended by revising subsection (c) of Code Section 15-10-45, relating
11 to compulsory and permissive counterclaims, as follows:

12 "(c) If any defendant asserts a claim against the plaintiff, the defendant shall file with the
13 court a statement of the claim in concise form and free from technicalities. The
14 defendant's claim shall give the plaintiff reasonable notice of the basis for each claim
15 contained in the statement of claim and reasonable notice of when each claim occurred.

16 The defendant shall sign and verify the statement of claim by oath or affirmation. At the
17 request of a defendant, the judge or clerk may prepare the statement."

18 **SECTION 4.**

19 Said article is further amended by revising Code Section 15-10-48, relating to form of
20 statement of claim, verification, and notice, as follows:

21 "15-10-48.

22 The statement of claim, verification, and notice shall be in substantially the following form:

23 Magistrate Court of _____ County
24 State of Georgia

25 _____
26 Plaintiff

27 _____
28 Address

29 v.

30 _____
31 Defendant

Statement of Claim

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(Here the plaintiff or, at his or her request, the court will insert a brief statement of the plaintiff's claim or claims giving the defendant reasonable notice of the basis for each claim and reasonable notice of when each claim occurred, and, if the action is on a contract, either express or implied, the original statement of the plaintiff's claim which is to be filed with the court may be verified by the plaintiff or his or her agent as follows:)

STATE OF GEORGIA
COUNTY OF _____

_____, being first duly sworn on oath, says the foregoing is a just and true statement of the amount owing by defendant to plaintiff, exclusive of all setoffs and just grounds of defense.

Plaintiff or agent

Sworn and subscribed
before me this _____ day
of _____, ____.

Notary public
or attesting
official

Notice

TO: _____
Defendant

Home Address
or

Business Address

1 You are hereby notified that _____ has made a claim and is
 2 requesting judgment against you in the sum of _____ dollars (\$_____), as shown
 3 by the foregoing statement. The court will hold a hearing upon this claim at (address
 4 of court) at a time to be set after your answer is filed.

5 YOU ARE REQUIRED TO FILE OR PRESENT AN ANSWER TO THIS CLAIM
 6 WITHIN 30 DAYS AFTER SERVICE OF THIS CLAIM UPON YOU. IF YOU DO
 7 NOT ANSWER, JUDGMENT BY DEFAULT WILL BE ENTERED AGAINST YOU.
 8 YOUR ANSWER MAY BE FILED IN WRITING OR MAY BE GIVEN ORALLY
 9 TO THE JUDGE.

10 If you have witnesses, books, receipts, or other writings bearing on this claim, you
 11 should bring them with you at the time of hearing.

12 If you wish to have witnesses summoned, see the court at once for assistance.

13 If you have any claim against the plaintiff, you should notify the court at once.

14 If you admit the claim, but desire additional time to pay, you must come to the hearing
 15 in person and state the circumstances to the court.

16 You may come with or without an attorney.

17 _____
 18 Magistrate of
 19 _____ County"

20 SECTION 5.

21 Said article is further amended by revising subsections (b), (c), and (g) of Code Section
 22 15-10-50, relating to propounding of interrogatories to judgment debtor, as follows:

23 "(b) If the judgment or execution concerning which interrogatories are being propounded
 24 was issued by the magistrate court the judgment creditor may, ~~within 30 days~~ after the
 25 entry of judgment, file the form interrogatories specified in this Code section with the clerk
 26 of the same magistrate court, along with costs of \$10.00. Interrogatories filed under this
 27 subsection shall be served upon the judgment debtor by certified mail or statutory overnight
 28 delivery.

29 (c) Interrogatories propounded pursuant to a judgment ~~entered more than 30 days~~
 30 ~~previously~~ or entered in any other court shall be filed as a new civil action and shall be
 31 accompanied by the filing and service fees required for civil actions in that magistrate
 32 court. Interrogatories propounded under this subsection shall be served upon the judgment
 33 debtor in the manner provided for service of process in civil actions in magistrate court."

34 "(g) Notwithstanding the provisions of Code Section 15-10-42, ~~in any case involving writs~~
 35 ~~and judgments in dispossessory or distress warrant proceedings under paragraph (6) of~~

1 ~~Code Section 15-10-2 in which the judgment exceeds the amount of \$5,000.00, the~~
2 judgment creditor or a successor in interest when that interest appears of record may, in
3 addition to any other process or remedy provided by law, utilize the discovery provisions
4 set forth in Code Section 9-11-69."

5 **SECTION 6.**

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