

Senate Bill 537

By: Senator Hamrick of the 30th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 9-11-34 of the Official Code of Georgia Annotated, relating to the
2 production of documents and things and entry upon land for inspection and other purposes,
3 so as to provide for discovery and production of electronically stored information; to provide
4 for related matters; to provide for an effective date and applicability; to repeal conflicting
5 laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 9-11-34 of the Official Code of Georgia Annotated, relating to the production
9 of documents and things and entry upon land for inspection and other purposes, is amended
10 by adding a new subsection to read as follows:

11 "(e)(1) *Electronically stored information.* A request to produce, inspect, or copy
12 pursuant to this Code section which seeks electronically stored information shall
13 specifically state that it is requesting such information. When such a request requires a
14 party or nonparty to search for, retrieve, or produce electronically stored information, the
15 requesting party and the entity or person subject to such request shall meet and confer in
16 a good faith attempt to agree upon:

17 (A) A method for reasonably limiting the scope of any such search, retrieval, or
18 production to avoid unnecessary effort and expense; and

19 (B) A fair allocation of the costs of any such search, retrieval, or production.

20 (2) In the event an agreement cannot be reached on the matters enumerated in
21 subparagraphs (A) and (B) of paragraph (1) of this subsection, the court shall, upon
22 motion by the requesting party, enter an order:

23 (A) Setting forth a reasonably limited scope for searching for, retrieving, or producing
24 electronically stored information that avoids unnecessary effort and expense; and

25 (B) Requiring the requesting party to pay the reasonable costs of any search, retrieval,
26 or production, unless the court determines that such payment would create an
27 extraordinary and unfair hardship on the requesting party.

28 (3) The entity or person subject to a request to produce, inspect, or copy electronically
29 stored information shall not be required to search for, retrieve, or produce such
30 information until an agreement is reached pursuant to subparagraphs (A) and (B) of
31 paragraph (1) of this subsection or the court has entered an order pursuant to paragraph
32 (2) of this subsection."

33 **SECTION 2.**

34 This Act shall become effective on July 1, 2010, and shall apply to requests for production
35 served on and after July 1, 2010.

36 **SECTION 3.**

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