

Senate Bill 108

By: Senators Cowser of the 46th, Pearson of the 51st, Hudgens of the 47th, Heath of the 31st, Hill of the 32nd and others

AS PASSED SENATE:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 9-11-12 of the Official Code of Georgia Annotated, relating to
2 answers, defenses, and objections in civil practice, so as to provide for a stay of discovery
3 when a motion to dismiss is filed; to provide for related matters; to provide for an effective
4 date and applicability; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Code Section 9-11-12 of the Official Code of Georgia Annotated, relating to answers,
8 defenses, and objections in civil practice, is amended by adding a new subsection to read as
9 follows:

10 "(j)(1) Stay of discovery. If a party files a motion to dismiss before or at the time of filing
11 an answer and pursuant to the provisions of this Code section, discovery shall be stayed
12 for 120 days after the filing of such motion or until the ruling of the court on such motion,
13 whichever is sooner; provided, however, that such stay may be extended:

14 (A) By the court on its own motion;

15 (B) By agreement of the parties, filed with the court; or

16 (C) By order of the court upon motion of a party to extend such stay for good cause.

17 (2) The filing of a motion to dismiss against less than all counts alleged shall only stay
18 discovery related to the challenged claims.

19 (3) Discovery shall be extended for the duration of the stay of discovery imposed by this
20 subsection.

21 (4) Upon a showing of good cause, a court may grant a motion for expedited discovery
22 while the motion to dismiss is pending. Good cause may include, but shall not be limited
23 to, discovery needed because a witness will be unavailable during the discovery period
24 or because a party is seeking an interlocutory injunction.

25 (5) If a motion to dismiss raises defenses set forth in paragraph (2), (3), or (7) of
26 subsection (b) of this Code section, limited discovery needed to respond to such defenses
27 shall be permitted until the court rules on such motion.

28 (6) The court shall decide any motion to dismiss which results in the imposition of a stay
29 of discovery pursuant to this subsection during the time period in which such stay exists."

30 **SECTION 2.**

31 This Act shall apply with respect to motions to dismiss filed on or after the effective date of
32 this Act which shall be determined as provided in Code Section 1-3-4 of the Official Code
33 of Georgia Annotated.

34 **SECTION 3.**

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