

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 courts, so as to provide for applicability of the  
3 "Georgia Civil Practice Act" under certain circumstances; to change provisions relating to  
4 service of process; to provide for service of process by publication in certain circumstances;  
5 to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

7 Article 3 of Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to  
8 civil proceedings in magistrate courts, is amended by revising Code Section 15-10-42,  
9 relating to Civil Practice Act inapplicable to magistrate courts, as follows:  
10

11 "15-10-42.

12 Except as provided in Code Sections 15-10-43 and 15-10-50, proceedings Proceedings in  
13 the magistrate court shall not be subject to Chapter 11 of Title 9, the 'Georgia Civil Practice  
14 Act.,' but such proceedings may be subject to such Act if application of such Act will  
15 achieve substantial justice between the parties according to the rules of substantive law and  
16 will serve the interests of justice."

**SECTION 2.**

17 Said article is further amended by revising subsections (b) and (g) of Code Section 15-10-43,  
18 relating to a statement of claim in civil proceeding in magistrate court, service of process,  
19 answer to claim, default judgment, opening of default, and relief in magistrate court, as  
20 follows:  
21

22 "(b)(1) Service of process within the county shall be made by serving ~~A copy of the~~  
23 ~~verified statement of claim shall be served on the defendant personally~~ with a verified  
24 statement of claim, or by leaving a copy thereof at the defendant's dwelling or usual place  
25 of abode with some person of suitable age and discretion then residing therein, or by

26 delivering a copy of the claim to an agent authorized by appointment or by law to receive  
 27 service of process, and such service shall be sufficient. ~~Service of said process shall be~~  
 28 ~~made within the county as provided in this Code section.~~

29 (2) Service of process outside the county shall be by second original as provided in Code  
 30 Section 9-10-72. Said service shall be made by any official or person authorized by law  
 31 to serve process in the superior court, by a constable, or by any person sui juris who is not  
 32 a party to, or otherwise interested in, the action, who is specially appointed by the judge  
 33 of said court for that purpose. When the claim and notice are served by a private  
 34 individual, such individual shall make proof of service by affidavit, showing the time and  
 35 place of such service on the defendant.

36 (3) When the defendant cannot, after due diligence, be found within this state, or  
 37 conceals himself or herself to avoid the service of process, and the fact shall appear, by  
 38 affidavit, to the satisfaction of the judge or clerk of the court, and it shall appear, either  
 39 by affidavit or by a verified statement of claim, that a claim exists against such defendant  
 40 and that he or she is a necessary or proper party to the action, the judge or clerk may grant  
 41 an order that the service of process be made by the publication of summons, and the  
 42 provisions of paragraph (1) of subsection (f) of Code Section 9-11-4 shall be followed for  
 43 such service."

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

### 50 SECTION 3.

51 Said article is further amended by revising subsection (g) of Code Section 15-10-50, relating  
 52 to propounding of interrogatories to judgment debtor, form, contempt, and authorized  
 53 discovery procedures, as follows:

54 ~~"(g) Notwithstanding the provisions of Code Section 15-10-42, the~~ The judgment creditor  
 55 or a successor in interest when that interest appears of record may, in addition to any other  
 56 process or remedy provided by law, utilize the discovery provisions set forth in Code  
 57 Section 9-11-69."

### 58 SECTION 4.

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