

The Senate Judiciary Committee offered the following substitute to HB 46:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 24 of the Official Code of Georgia Annotated, relating to evidence, so as to
2 repeal the "Uniform Foreign Depositions Act" and to replace such Act with the "Uniform
3 Interstate Depositions and Discovery Act"; to provide for a short title; to provide for
4 definitions; to provide for issuance and service of subpoenas; to provide for depositions and
5 production and inspection of documents and tangible evidence; to provide for protective
6 orders; to provide for related matters; to provide for an effective date and a contingent
7 effective date and applicability; to provide for automatic repeal under certain circumstances;
8 to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 PART I
11 SECTION 1-1.

12 Title 24 of the Official Code of Georgia Annotated, relating to evidence, is amended by
13 repealing Article 6 of Chapter 10, the "Uniform Foreign Depositions Act," and enacting a
14 new Article 6 to read as follows:

15 "ARTICLE 6

16 24-10-110.

17 This article shall be known and may be cited as the 'Uniform Interstate Depositions and
18 Discovery Act.'

19 24-10-111.

20 As used in this article, the term:

21 (1) 'Foreign jurisdiction' means a state other than this state.

22 (2) 'Foreign subpoena' means a subpoena issued under authority of a court of record of
23 a foreign jurisdiction.

24 (3) 'Person' means an individual, corporation, business trust, estate, trust, partnership,
 25 limited liability company, association, joint venture, public corporation, government or
 26 governmental subdivision, agency, or instrumentality, or any other legal or commercial
 27 entity.

28 (4) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the
 29 United States Virgin Islands, a federally recognized Native American tribe, or any
 30 territory or insular possession subject to the jurisdiction of the United States.

31 (5) 'Subpoena' means a document, however denominated, issued under authority of a
 32 court of record requiring a person to:

33 (A) Attend and give testimony at a deposition;

34 (B) Produce and permit inspection and copying of designated books, documents,
 35 records, electronically stored information, or tangible things in the possession, custody,
 36 or control of such person; or

37 (C) Permit inspection of premises under the control of such person.

38 24-10-112.

39 (a) To request issuance of a subpoena under this Code section, a party shall submit a
 40 foreign subpoena to the clerk of superior court of the county in which the person receiving
 41 the subpoena resides. A request for the issuance of a subpoena under this Code section
 42 shall not constitute an appearance in the courts of this state.

43 (b) When a party submits a foreign subpoena to a clerk of superior court in this state, the
 44 clerk shall promptly issue and provide to the requestor a subpoena for service upon the
 45 person to which the foreign subpoena is directed.

46 (c) A subpoena under subsection (b) of this Code section shall:

47 (1) Incorporate the terms used in the foreign subpoena; and

48 (2) Contain or be accompanied by the names, addresses, and telephone numbers of all
 49 counsel of record in the proceeding to which the subpoena relates and of any party not
 50 represented by counsel.

51 (d) This Code section shall not apply to criminal proceedings.

52 24-10-113.

53 (a) For purposes of this Code section, the term 'subpoena' shall have only the meaning set
 54 forth in subparagraph (A) of paragraph (5) of Code Section 24-10-111.

55 (b) In addition to the mechanism for issuing subpoenas provided for in Code Section
 56 24-10-112, whenever any mandate, writ, or commission is issued out of any court of record
 57 in a foreign jurisdiction, a witness may be compelled by subpoena issued by the clerk of
 58 superior court of the county in which such witness resides to appear and testify in the same

59 manner and by the same process and proceeding as may be employed for the purpose of
 60 taking testimony in proceedings pending in this state.

61 24-10-114.

62 A subpoena issued by the clerk of superior court under Code Section 24-10-112 or
 63 24-10-113 shall be served in compliance with Code Section 24-10-23 and shall be served
 64 within a reasonable time prior to the appearance required by such subpoena.

65 24-10-115.

66 Part 1 of Article 2 of this chapter shall apply to subpoenas issued under Code Section
 67 24-10-112 or 24-10-113.

68 24-10-116.

69 An application for a protective order or to enforce, quash, or modify a subpoena issued by
 70 the clerk of superior court under Code Section 24-10-112 or 24-10-113 shall comply with
 71 the statutes and court rules of this state and shall be submitted to the superior court of the
 72 county in which the subpoena was issued."

73 **PART II**

74 **SECTION 2-1.**

75 Title 24 of the Official Code of Georgia Annotated, relating to evidence, is amended by
 76 repealing Article 5 of Chapter 13 as enacted by HB 24, substantially revising, superseding,
 77 and modernizing provisions relating to evidence during the 2011-2012 biennium of the
 78 General Assembly, and enacting a new article to read as follows:

79 "ARTICLE 5

80 24-13-110.

81 This article shall be known and may be cited as the 'Uniform Interstate Depositions and
 82 Discovery Act.'

83 24-13-111.

84 As used in this article, the term:

85 (1) 'Foreign jurisdiction' means a state other than this state.

86 (2) 'Foreign subpoena' means a subpoena issued under authority of a court of record of
 87 a foreign jurisdiction.

88 (3) 'Person' means an individual, corporation, business trust, estate, trust, partnership,
 89 limited liability company, association, joint venture, public corporation, government or
 90 governmental subdivision, agency, or instrumentality, or any other legal or commercial
 91 entity.

92 (4) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the
 93 United States Virgin Islands, a federally recognized Native American tribe, or any
 94 territory or insular possession subject to the jurisdiction of the United States.

95 (5) 'Subpoena' means a document, however denominated, issued under authority of a
 96 court of record requiring a person to:

97 (A) Attend and give testimony at a deposition;

98 (B) Produce and permit inspection and copying of designated books, documents,
 99 records, electronically stored information, or tangible things in the possession, custody,
 100 or control of such person; or

101 (C) Permit inspection of premises under the control of such person.

102 24-13-112.

103 (a) To request issuance of a subpoena under this Code section, a party shall submit a
 104 foreign subpoena to the clerk of superior court of the county in which the person receiving
 105 the subpoena resides. A request for the issuance of a subpoena under this Code section
 106 shall not constitute an appearance in the courts of this state.

107 (b) When a party submits a foreign subpoena to a clerk of superior court in this state, the
 108 clerk shall promptly issue and provide to the requestor a subpoena for service upon the
 109 person to which the foreign subpoena is directed.

110 (c) A subpoena under subsection (b) of this Code section shall:

111 (1) Incorporate the terms used in the foreign subpoena; and

112 (2) Contain or be accompanied by the names, addresses, and telephone numbers of all
 113 counsel of record in the proceeding to which the subpoena relates and of any party not
 114 represented by counsel.

115 (d) This Code section shall not apply to criminal proceedings.

116 24-13-113.

117 (a) For purposes of this Code section, the term 'subpoena' shall have only the meaning set
 118 forth in subparagraph (A) of paragraph (5) of Code Section 24-13-111.

119 (b) In addition to the mechanism for issuing subpoenas provided for in Code Section
 120 24-13-112, whenever any mandate, writ, or commission is issued out of any court of record
 121 in a foreign jurisdiction, a witness may be compelled by subpoena issued by the clerk of
 122 superior court of the county in which such witness resides to appear and testify in the same

123 manner and by the same process and proceeding as may be employed for the purpose of
 124 taking testimony in proceedings pending in this state.

125 24-13-114.

126 A subpoena issued by the clerk of superior court under Code Section 24-13-112 or
 127 24-13-113 shall be served in compliance with Code Section 24-13-23 and shall be served
 128 within a reasonable time prior to the appearance required by such subpoena.

129 24-13-115.

130 Article 2 of this chapter shall apply to subpoenas issued under Code Section 24-13-112 or
 131 24-13-113.

132 24-13-116.

133 An application for a protective order or to enforce, quash, or modify a subpoena issued by
 134 the clerk of superior court under Code Section 24-13-112 or 24-13-113 shall comply with
 135 the statutes and court rules of this state and shall be submitted to the superior court of the
 136 county in which the subpoena was issued."

137 PART III

138 SECTION 3-1.

139 (a) This part and Part I of this Act shall become effective on July 1, 2011, and shall apply
 140 to subpoenas served on or after July 1, 2011, and in actions pending on or after July 1,
 141 2011, except as otherwise provided by subsection (b) of this section.

142 (b)(1) Part II of this Act shall become effective only if HB 24, substantially revising,
 143 superseding, and modernizing provisions relating to evidence, is enacted during the
 144 2011-2012 biennium of the General Assembly and becomes law on or before January 1,
 145 2013, in which case Part II of this Act shall become effective on the same date that said
 146 HB 24 becomes effective and shall apply to subpoenas served on or after July 1, 2013,
 147 and in actions pending on or after July 1, 2013.

148 (2) Part I of this Act shall stand repealed if and when Part II of this Act becomes
 149 effective as provided by paragraph (1) of this subsection.

150 (3) If said HB 24 does not become law on or before January 1, 2013, as provided by
 151 paragraph (1) of this subsection, then Part II of this Act shall stand repealed on January 1,
 152 2013.

153 SECTION 3-2.

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