

House Bill 683

By: Representatives Willard of the 49th, Smith of the 131st, Welch of the 110th, McCall of the 30th, and Dickey of the 136th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 4 of Title 18 of the Official Code of Georgia Annotated, relating to
2 garnishment proceedings, so as to provide that the filing of certain answers on behalf of
3 certain garnishees may be done by authorized officers or employees and shall not constitute
4 the practice of law; to provide for definitions; to provide that delivery to the court of money
5 or property that is subject to garnishment may likewise be accomplished by certain officers
6 or employees of an entity; to conform the terminology of the chapter to reflect defined terms;
7 to change provisions relating to service of garnishment actions; to increase the amount of
8 attorney's fees a garnishee may deduct from the sums paid into court; to provide for related
9 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Chapter 4 of Title 18 of the Official Code of Georgia Annotated, relating to garnishment
13 proceedings, is amended by revising Code Section 18-4-1, relating to practice and procedure
14 generally, as follows:

15 "18-4-1.

16 (a) As used in this chapter, the terms 'garnishee answer,' 'garnishee's answer,' or 'answer
17 of garnishee' means the response filed by a garnishee responding to a summons of
18 garnishment detailing the property, money, or other effects of the defendant that are in the
19 possession of the garnishee or declaring that the garnishee holds no such property, money,
20 or other effects of the defendant.

21 (b) The procedure in garnishment cases shall be uniform in all courts throughout this state;
22 and, except as otherwise provided in this chapter, Chapter 11 of Title 9 shall apply in
23 garnishment proceedings."

24 **SECTION 2.**

25 Said chapter is further amended by revising Code Section 18-4-3, relating to amendment of
26 affidavits, bonds, or pleadings, as follows:

27 "18-4-3.

28 Unless otherwise provided in this chapter, any affidavit, bond, garnishee answer, or
29 pleading required or permitted by this chapter shall be amendable at any time before
30 judgment thereon."

31 **SECTION 3.**

32 Said chapter is further amended by adding a new Code section to the end of Article 1,
33 relating to general provisions, to read as follows:

34 "18-4-8.

35 (a) As used in this Code section, the term:

36 (1) 'Entity' means a corporation, limited liability company, partnership, limited
37 partnership, professional corporation, firm, or other business entity other than a natural
38 person or public corporation.

39 (2) 'Public corporation' means the State of Georgia or any department, agency, branch
40 of government, or State of Georgia political subdivision, as such term is defined in Code
41 Section 50-15-1, or any public board, bureau, commission, or authority created by the
42 General Assembly.

43 (b) When a garnishment proceeding is filed in a court of record under any provision of this
44 chapter involving an entity as garnishee, the execution and filing of a garnishee answer
45 may be done by an entity's authorized officer or employee and shall not constitute the
46 practice of law. If a traverse or claim is filed to such entity's garnishee answer, an attorney
47 shall be required to represent such entity in further garnishment proceedings.

48 (c) An entity's payment into court of any property, money, or other effects of the
49 defendant, or property or money which is admitted to be subject to garnishment, may be
50 done by an entity's authorized officer or employee and shall not constitute the practice of
51 law."

52 **SECTION 4.**

53 Said chapter is further amended by revising paragraphs (1) and (2) of subsection (i) of Code
54 Section 18-4-20, relating to property subject to garnishment generally, as follows:

55 "(1) The name of the defendant, and, to the extent such would reasonably enable the
56 garnishee to ~~answer~~ properly respond to the summons, all known configurations,
57 nicknames, aliases, former or maiden names, trade names, or variations thereof;

58 (2) The service address and the current addresses of the defendant and, to the extent such
 59 would reasonably enable the garnishee to ~~answer~~ properly respond to the summons of
 60 garnishment and such is reasonably available to the plaintiff, the past addresses of the
 61 defendant;"

62 **SECTION 5.**

63 Said chapter is further amended by revising subsection (a) of Code Section 18-4-21, relating
 64 to the garnishment of salaries of officials and employees of the state and its political
 65 subdivisions, as follows:

66 "(a) Money due officials or employees of a municipal corporation or county of this state
 67 or of the state government, or any department or institution thereof, as salary for services
 68 performed for or on behalf of the municipal corporation or county of this state, or the state,
 69 or any department or institution thereof, shall be subject to garnishment, except in no event
 70 may the officials' or employees' salary for services performed for or on behalf of any
 71 municipal corporation or county of this state, or the state, or any department or institution
 72 thereof, be garnished where the judgment serving as a basis for the issuance of the
 73 summons of garnishment arises out of the liability incurred in the scope of the officials' or
 74 employees' governmental employment while responding to an emergency. In such cases,
 75 the summons shall be directed to such political entity and served upon the person
 76 authorized by law to draw the warrant on the treasury of the government or to issue a check
 77 for such salary due, or upon the chief administrative officer of the political subdivision,
 78 department, agency, or instrumentality; and such entity ~~is required to answer~~ shall be
 79 required to respond to the summons in accordance with the mandate thereof and as
 80 provided by this chapter."

81 **SECTION 6.**

82 Said chapter is further amended by revising Code Section 18-4-23, relating to the manner of
 83 service of summons of garnishment on corporations, as follows:

84 "18-4-23.

85 Service of a summons of garnishment shall be made ~~by serving the agent in charge of the~~
 86 ~~office or other place of business where the defendant is employed. In the event that such~~
 87 ~~service cannot be made, then service of a summons of garnishment upon the agent in~~
 88 ~~charge of either the registered office or the principal place of business of a corporation shall~~
 89 ~~be sufficient as provided in Code Section 9-11-4."~~

90 **SECTION 7.**

91 Said chapter is further amended by revising Code Section 18-4-62, relating to the contents
92 and service of the summons of garnishment and requirements for filing of an answer to the
93 summons of garnishment, as follows:

94 "18-4-62.

95 (a) The summons of garnishment shall be directed to the garnishee, commanding ~~him to~~
96 ~~file an answer~~ the garnishee to respond stating what money or other property is subject to
97 garnishment. Except as provided in subsection (b) or (c) of this Code section, the
98 garnishee's answer must shall be filed with the court issuing the summons not sooner than
99 30 days and not later than 45 days after the service of the summons and ~~must shall~~ be
100 accompanied by the money or other property subject to garnishment. Upon the affidavit
101 and summons being delivered to the sheriff, marshal, constable, or like officer of the court
102 issuing the summons, it shall be his or her duty to serve the summons of garnishment, as
103 set forth in Code Section 18-4-23, upon the person to whom it is directed and to make his
104 an entry of service upon the affidavit and return the affidavit to the court. The summons
105 of garnishment shall state that; if the garnishee fails to file a garnishee's answer to the
106 summons, a judgment by default will be entered against the garnishee for the amount
107 claimed by plaintiff against the defendant.

108 (b) Under circumstances where the defendant has been an employee of the garnishee, and
109 if the defendant is no longer employed by the garnishee, and if the garnishee has no money
110 or property of the defendant subject to garnishment, the garnishee may immediately file ~~an~~
111 the garnishee's answer; provided, however, that such garnishee's answer shall be filed not
112 later than 45 days after the service of the summons.

113 (c) If the garnishee is a bank or other financial institution and if the defendant does not
114 have an active account with, and is not the owner of any money or property in the
115 possession of, the bank or financial institution, then the garnishee may immediately file ~~an~~
116 a garnishee's answer; provided, however, that such garnishee's answer shall be filed not
117 later than 45 days after the service of the summons."

118 **SECTION 8.**

119 Said chapter is further amended by revising paragraphs (2), (4), and (6) of Code Section
120 18-4-66, relating to forms for postjudgment garnishment, as follows:

121 "(2) Summons of garnishment.

122 IN THE _____ COURT OF _____ COUNTY
123 STATE OF GEORGIA

124 _____)
 125 Plaintiff)
 126)
 127 v.) Civil action
 128) File no. _____
 129 _____)
 130 Defendant)
 131 Social security)
 132 number)
 133)
 134 _____)
 135 Garnishee)
 136)
 137 _____)
 138 Address)

139 SUMMONS OF GARNISHMENT

140 To: _____ Garnishee
 141 Amount claimed due by plaintiff \$ _____
 142 (To be completed by plaintiff)
 143 Plus court costs due on the summons \$ _____
 144 (To be completed by the clerk)
 145 YOU ARE HEREBY COMMANDED to hold immediately all property, money, wages,
 146 except what is exempt, belonging to the defendant, or debts owed to the defendant named
 147 above at the time of service of this summons and between the time of service of this
 148 summons and the time of making your garnishee answer. Not sooner than 30 days but
 149 not later than 45 days after you are served with this summons, you are commanded to file
 150 your garnishee answer in writing with the clerk of this court and serve a copy upon the
 151 plaintiff or ~~his~~ the plaintiff's attorney named below. Money or other property subject to
 152 this summons should be delivered to the court with your garnishee answer. Should you
 153 fail to ~~answer~~ file a garnishee answer to this summons, a judgment will be rendered
 154 against you for the amount the plaintiff claims due by the defendant.
 155 Witness the Honorable _____, Judge of said Court.
 156 This _____ day of _____, _____.

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Clerk,
____ Court of _____ County

Plaintiff's attorney

Address

Service perfected on garnishee, this ____ day of _____, ____.

Deputy marshal, sheriff,
or constable"

"(4) Answer of garnishee.

IN THE _____ COURT OF _____ COUNTY
STATE OF GEORGIA

_____)
Plaintiff)
)
v.) Civil action
) File no. ____
_____)
Defendant)
)
_____)
Garnishee)

ANSWER OF GARNISHEE

1.

At the time of service or from the time of service to the time of this garnishee answer,
garnishee had in ~~his~~ its possession the following described property of the defendant:

2.

188 At the time of service or from the time of service to the time of this garnishee answer, all
189 debt accruing from garnishee to defendant is in the amount of \$_____.

190 3.

191 \$_____ of the amount named in paragraph 2 was wages earned at the rate of
192 \$_____ per _____ for the period beginning _____ (date) _____, _____, through the time
193 of making this garnishee answer. The amount of wages which is subject to this
194 garnishment is computed as follows:

- 195 \$ _____ Gross earnings
- 196 \$ _____ Total social security and withholding tax
- 197 \$ _____ Total disposable earnings
- 198 \$ _____ Amount of wages subject to garnishment

199 4.

200 Garnishee further states: _____.

201 _____
 202 Garnishee, ~~or his~~
 203 attorney at law
 204 garnishee's attorney, or officer or
 205 employee of an entity garnishee

206 (CERTIFICATE OF SERVICE)"

207 "(6) Release of garnishment.

208 IN THE _____ COURT OF _____ COUNTY
 209 STATE OF GEORGIA

210 _____)
 211 Plaintiff)
 212)
 213 v.) Civil action
 214) File no. _____
 215 _____)
 216 Defendant)
 217)
 218 _____)
 219 Garnishee)
 220)

221 _____)
222 Address)

223 RELEASE OF GARNISHMENT

224 To: _____ Garnishee

225 This is to notify you that you have been released from filing ~~an~~ a garnishee answer to any
226 and all summons of garnishment pending as of this date in the above-styled case.

227 This release authorizes you to deliver to the defendant in garnishment any money or other
228 property in your possession belonging to the defendant.

229 This release does not terminate the garnishment proceedings, nor does this release relieve
230 you of any obligation placed on you by the service of a summons of garnishment
231 subsequent to this date.

232 This _____ day of _____, ____.

233 _____
234 Clerk,
235 _____ Court of _____ County"

236 SECTION 9.

237 Said chapter is further amended by revising Code Sections 18-4-80 through 18-4-85, relating
238 to the effect of release of the summons of garnishment on the garnishee, effect of defendant
239 traverse on garnishee, contents of answer of garnishee, service of answer of garnishee on
240 plaintiff or attorney, delivery to court of property admitted to be subject to garnishment, and
241 traverse of answer of garnishee by plaintiff, respectively, as follows:

242 "18-4-80.

243 A release of summons of garnishment shall relieve the garnishee from any obligation to file
244 ~~an~~ a garnishee answer to any summons of garnishment pending on the date of the release
245 and shall authorize the garnishee to deliver to the defendant in garnishment any money or
246 other property in the garnishee's possession belonging to the defendant. A release shall not
247 operate as a dismissal of the garnishment proceedings.

248 18-4-81.

249 When the defendant files his or her traverse, the garnishee is not relieved of filing ~~an~~ a
250 garnishee answer, nor is the garnishee relieved of delivering the money or other property
251 of the defendant which is subject to the garnishment to the court, unless the defendant files
252 in the clerk's office of the court where the garnishment is pending a bond with good

253 security, in favor of the plaintiff, conditioned for the payment of any judgment that may
 254 be entered in the proceeding. The bond shall be subject to approval by the clerk of the
 255 court; and, upon receipt of a bond deemed acceptable by the clerk, it shall be ~~his~~ the clerk's
 256 duty to issue a release of any summons of garnishment pending in the garnishment
 257 proceeding. If the plaintiff shall prevail in the proceeding, ~~he~~ the plaintiff shall be entitled
 258 to entry of judgment upon such bond against the principal and securities therein, as
 259 judgment may be entered against securities upon appeal. ~~Where~~ If the defendant files a
 260 bond, no further garnishment process may be filed in any court by the plaintiff against the
 261 defendant until the issues raised by the defendant's pleadings are decided.

262 18-4-82.

263 Within the time prescribed by Code Section 18-4-62, the garnishee shall file ~~his~~ a garnishee
 264 answer describing what money or other property is subject to garnishment under Code
 265 Section 18-4-20. If the garnishee owes the defendant any sum for wages, the garnishee
 266 answer shall also state specifically when the wages were earned by defendant and whether
 267 they were earned as daily, weekly, or monthly wages. If the garnishee has been served
 268 with summons in more than one garnishment case involving the same defendant, the
 269 garnishee shall state in each garnishee answer that the money or other property is being
 270 delivered to the court subject to the claims of all the cases and shall give the numbers of
 271 all such cases in each garnishee answer. If the garnishee ~~shall be~~ is unable to ~~answer~~
 272 respond as provided for in this Code section, ~~his~~ the garnishee's inability shall appear in ~~his~~
 273 the garnishee's answer, together with all the facts plainly, fully, and distinctly set forth, so
 274 as to enable the court to give judgment thereon.

275 18-4-83.

276 All garnishee answers ~~by the garnishee~~ shall, concurrently with filing, be served upon the
 277 plaintiff or ~~his~~ the plaintiff's attorney. Service may be shown by the written
 278 acknowledgment of the plaintiff or ~~his~~ the plaintiff's attorney, or by the certificate of the
 279 garnishee or ~~his~~ the garnishee's attorney, attached to the garnishee's answer, that a copy of
 280 the garnishee's answer was mailed to the plaintiff or ~~his~~ the plaintiff's attorney; provided,
 281 however, that no service shall be required unless the name and address of the plaintiff or
 282 ~~his~~ the plaintiff's attorney shall appear on the face of the summons of garnishment;
 283 provided, further, that, if the garnishee fails to serve the plaintiff, the plaintiff shall be
 284 allowed 15 days from the time the plaintiff receives actual notice of the garnishee's answer
 285 to traverse the same.

286 18-4-84.

287 Along with the garnishee's answer, the garnishee shall deliver to the court the money or
 288 other property admitted in the garnishee's answer to be subject to garnishment. If in
 289 ~~answering~~ responding to the summons of garnishment, as provided in Code Section
 290 18-4-82, the garnishee shall state that the property of the defendant includes property in a
 291 safe-deposit box or similar property, the garnishee shall ~~answer~~ respond to the court issuing
 292 the summons of garnishment as to the existence of such safe-deposit box and shall hold any
 293 contents of such safe-deposit box until the earlier of:

- 294 (1) Further order of said court either releasing the garnishment or specifically requiring
 295 the garnishee to open such safe-deposit box and deliver any contents thereof to said court
 296 upon conditions prescribed by said court; or
 297 (2) The elapsing of 120 days from the date of filing of the garnishee answer to the
 298 summons of garnishment unless such time has been extended by the court.

299 18-4-85.

300 If the ~~garnishee serves his~~ garnishee's answer is served on the plaintiff as provided for in
 301 Code Section 18-4-83, the plaintiff or claimant ~~must~~ shall traverse the garnishee's answer
 302 within 15 days after it is served, or the garnishee ~~is~~ shall be automatically discharged from
 303 further liability with respect to the summons so answered."

304 **SECTION 10.**

305 Said chapter is further amended by revising Code Sections 18-4-90 through 18-4-92, relating
 306 to entry of default judgment upon the failure of garnishee to file an answer to the summons,
 307 relief of garnishment from default judgment, and the effect of garnishee's failure to respond
 308 properly to a summons of garnishment, respectively, as follows:

309 "18-4-90.

310 In case the garnishee fails or refuses to file ~~an~~ a garnishee answer by the forty-fifth day
 311 after service of the summons, the garnishee shall automatically be in default. The default
 312 may be opened as a matter of right by the filing of ~~an~~ a garnishee answer within 15 days
 313 of the day of default and payment of costs. If the case is still in default after the expiration
 314 of the period of 15 days, judgment by default may be entered at any time thereafter against
 315 the garnishee for the amount claimed to be due on the judgment obtained against the
 316 defendant.

317 18-4-91.

318 When a judgment is rendered against a garnishee under Code Section 18-4-90, on a motion
 319 filed not later than 60 days from the date the garnishee receives actual notice of the entry

320 of the judgment against ~~him, he may,~~ the garnishee, the garnishee may, upon payment of
 321 all accrued costs of court, have the judgment modified so that the amount of the judgment
 322 shall be reduced to an amount equal to the greater of \$50.00 or \$50.00 plus 100 percent of
 323 the amount by which the garnishee was indebted to the defendant from the time of service
 324 of the summons of garnishment through and including the last day on which a timely
 325 garnishee answer could have been made for all money, other property, or effects belonging
 326 to the defendant which came into the garnishee's hands from the time of service of the
 327 summons through and including the last day on which a timely answer could have been
 328 made and, in the case of garnishment of wages, less any exemption allowed the defendant
 329 by law. Notice to the garnishee by certified mail or statutory overnight delivery shall be
 330 sufficient notice as required in this Code section. On the trial of the motion, the burden of
 331 proof shall be upon any plaintiff who objects to the timeliness of the motion to establish
 332 that the motion was not filed within the time provided for by this Code section.

333 18-4-92.

334 On the trial of the plaintiff's traverse, if the court finds the garnishee has failed to ~~answer~~
 335 respond properly to the summons of garnishment, the court shall disallow any expenses
 336 claimed by the garnishee and enter a judgment for any money or other property delivered
 337 to the court with the garnishee's answer, plus any money or other property the court finds
 338 subject to garnishment which the garnishee has failed to deliver to the court; provided,
 339 however, that the total amount of such judgment shall in no event exceed the amount
 340 claimed due by the plaintiff, together with the costs of the garnishment proceeding."

341 **SECTION 11.**

342 Said chapter is further amended by revising subsection (a) of Code Section 18-4-92.1,
 343 relating to relief of garnishee from liability, as follows:

344 "(a) A garnishee may be relieved from liability for failure to file a garnishee answer
 345 properly to the summons of garnishment if the plaintiff failed to provide the information
 346 required by subsection (i) of Code Section 18-4-20 that would reasonably enable the
 347 garnishee to ~~answer~~ respond properly to the summons of garnishment and a good faith
 348 effort to locate the requested property was made by the garnishee based on the information
 349 provided by the plaintiff. In determining whether a garnishee may be relieved of liability
 350 imposed by Code Section 18-4-92, the court shall consider and compare the accuracy and
 351 quantity of the information supplied by the plaintiff pursuant to subsection (i) of Code
 352 Section 18-4-20 with the manner in which the garnishee maintains and locates its records,
 353 the compliance by the garnishee with its own procedures, and the conformity of the record

354 systems and procedures with reasonable commercial standards prevailing in the area in
 355 which the garnishee is located."

356 **SECTION 12.**

357 Said chapter is further amended by revising subsections (a) and (b) of Code Section 18-4-97,
 358 relating to the right of garnishee to actual reasonable expenses in making a true answer of
 359 garnishment, as follows:

360 "(a) The garnishee shall be entitled to ~~his~~ the garnishee's actual reasonable expenses,
 361 including attorney's fees, in ~~making a true answer~~ preparing and filing a garnishee's answer
 362 to a summons of garnishment. The amount so incurred shall be taxed in the bill of costs
 363 and shall be paid by the party upon whom the cost is cast, as costs are cast in other cases.
 364 The garnishee may deduct ~~\$25.00~~ \$50.00 or 10 percent of the amount paid into court,
 365 whichever is greater, not to exceed ~~\$50.00~~ \$100.00, as reasonable attorney's fees or
 366 expenses.

367 (b) If the garnishee can show that ~~his~~ the garnishee's actual attorney's fees or expenses
 368 exceed the amount provided for in subsection (a) of this Code section, ~~he must~~ the
 369 garnishee shall petition the court for a hearing at the time of ~~making his~~ filing the
 370 garnishee's answer without deducting from the amount paid into court. Upon hearing from
 371 the parties, the court may enter an order for payment of actual attorney's fees or expenses
 372 proven by the garnishee to have been incurred reasonably in ~~making his~~ preparing and
 373 filing the garnishee's answer."

374 **SECTION 13.**

375 Said chapter is further amended by revising Code Section 18-4-110, relating to the right of
 376 the plaintiff who has obtained a money judgment to process of continuing garnishment, as
 377 follows:

378 "18-4-110.

379 In addition to garnishment proceedings otherwise available under this chapter, in cases
 380 where a money judgment ~~shall have~~ has been obtained in a court of this state or a federal
 381 court sitting in this state, the plaintiff shall be entitled to the process of continuing
 382 garnishment against any garnishee who is an employer of the defendant against whom the
 383 judgment has been obtained. Unless otherwise specifically provided in this article, the
 384 methods, practices, and procedures for continuing garnishment shall be the same as for any
 385 other garnishment as provided in this chapter, including, but not limited to, those
 386 proceedings after a garnishee's answer as provided in Code Section 18-4-89."

387 **SECTION 14.**

388 Said chapter is further amended by revising subsection (c) of Code Section 18-4-112, relating
 389 to filing and contents of affidavit for continuing garnishment, as follows:

390 "(c) The plaintiff, using either forms provided by the court or forms prepared by ~~himself~~
 391 the plaintiff, shall cause forms sufficient for seven garnishee answers to a summons of
 392 continuing garnishment to be served on the garnishee along with the summons."

393 **SECTION 15.**

394 Said chapter is further amended by revising Code Sections 18-4-113 through 18-4-117,
 395 relating to the contents of the summons of continuing garnishment, traverse of answer of
 396 garnishee by plaintiff, entry of default judgment against garnishee, effect of and proceedings
 397 upon filing of traverse by defendant, and the effect of termination of the employment
 398 relationship between garnishee and defendant, respectively, as follows:

399 "18-4-113.

400 (a) The summons of continuing garnishment shall be directed to the garnishee, who shall
 401 be required:

402 (1) To file a first garnishee answer no later than 45 days after service of summons of
 403 continuing garnishment, which garnishee answer shall state what property, money, or
 404 other effects of the defendant are subject to continuing garnishment from the time of
 405 service through and including the day of the first garnishee answer;

406 (2) To file further garnishee answers for the remaining period covered by the summons
 407 of continuing garnishment. Further garnishee answers shall be filed no later than 45 days
 408 after the previous garnishee answer date. Further garnishee answers shall state what
 409 property, money, or other effects of the defendant are subject to continuing garnishment
 410 from the previous garnishee answer date through and including the date on which that
 411 next garnishee answer is filed. No subsequent garnishee answers shall be required on a
 412 summons of continuing garnishment if the last garnishee answer filed states what
 413 property, money, or other effects of the defendant are subject to continuing garnishment
 414 from the previous garnishee answer date to and including the one hundred seventy-ninth
 415 day after service of summons of continuing garnishment. The last garnishee answer shall
 416 be filed, notwithstanding the other provisions of this paragraph, no later than the one
 417 hundred ninety-fifth day after service. For purposes of this paragraph, 'previous
 418 garnishee answer date' means the date upon which the immediately preceding garnishee
 419 answer to the summons of continuing garnishment was filed as provided in this
 420 subsection; and

421 (3) To accompany all such garnishee answers with any property, money, or other effects
 422 of the defendant admitted in the garnishee answer to be subject to continuing
 423 garnishment.

424 (b) The summons of continuing garnishment shall state the requirements of subsection (a)
 425 of this Code section and shall inform the garnishee that failure to comply with such
 426 requirements may result in a judgment against the garnishee for the entire amount claimed
 427 due on the judgment against the defendant.

428 18-4-114.

429 If the ~~garnishee serves his answer~~ garnishee's answer is served on the plaintiff as provided
 430 in Code Section 18-4-83, the plaintiff ~~must~~ shall traverse the garnishee answer within 15
 431 days after it is served, or the garnishee is shall be automatically discharged from further
 432 liability with respect to ~~such answer~~ the summons so answered.

433 18-4-115.

434 (a) If the garnishee fails or refuses to file ~~an~~ a garnishee answer at least once every 45
 435 days, the garnishee shall automatically become in default. The default may be opened as
 436 a matter of right by the filing of the required garnishee answer within 15 days after the day
 437 of default upon payment of costs. If the case is still in default after the expiration of such
 438 period of 15 days, judgment by default may be entered at any time thereafter against
 439 garnishee for the amount claimed to be due on the judgment obtained against the defendant.

440 (b) The garnishee may obtain relief from default judgment entered as provided in
 441 subsection (a) of this Code section upon the same conditions as provided in Code Section
 442 18-4-91.

443 18-4-116.

444 (a) In a continuing garnishment proceeding, upon the filing of a traverse by defendant
 445 pursuant to Code Section 18-4-93, no further summons of garnishment may issue nor may
 446 any money delivered to the court as subject to garnishment be disbursed until the hearing
 447 is held upon defendant's traverse. The filing of a traverse by the defendant does not relieve
 448 the garnishee of the duties of filing ~~an~~ a garnishee answer, of withholding property, money,
 449 or other effects subject to continuing garnishment, or of delivering to the court any
 450 property, money, or other effects subject to continuing garnishment.

451 (b) Nothing in this Code section shall affect the right of the defendant to file bond under
 452 this chapter.

453

454 18-4-117.
 455 Notwithstanding the requirements of Code Section 18-4-113, if the employment
 456 relationship between the garnishee and the defendant does not exist at the time of the
 457 service of summons of continuing garnishment or terminates during the continuing
 458 garnishment, in any garnishee answer required by this article, the garnishee may state that
 459 the employment relationship between the garnishee and defendant does not exist or has
 460 been terminated, giving the date of termination if terminated on or after service of this
 461 summons of continuing garnishment. If no traverse is filed within 15 days after the
 462 garnishee answer is served as provided in Code Section 18-4-83, the garnishee ~~is~~ shall be
 463 automatically discharged from further liability and obligation under Code Section 18-4-113
 464 for that summons with respect to the period of continuing garnishment remaining after the
 465 employment relationship is terminated."

466 **SECTION 16.**

467 Said chapter is further amended by revising paragraphs (2) and (3) of Code Section 18-4-118,
 468 relating to forms for continuing garnishment, as follows:

469 "(2) Summons of continuing garnishment.

470 IN THE _____ COURT OF _____ COUNTY
 471 STATE OF GEORGIA

472 _____)
 473 Plaintiff)
 474)
 475 v.) Civil action
 476) File no. ____
 477 _____)
 478 Defendant)
 479 Social security)
 480 number)
 481)
 482 _____)
 483 Garnishee)
 484)
 485 _____)
 486 Address)

487 SUMMONS OF CONTINUING GARNISHMENT

488 To: _____ Garnishee

489 Amount claimed due by plaintiff \$ _____

490 (To be completed by plaintiff)

491 Plus court costs due on this summons \$ _____

492 (To be completed by clerk)

493 YOU ARE HEREBY COMMANDED to hold immediately all property, money, wages,
494 except what is exempt, belonging to the defendant, or debts owed to the defendant named
495 above at the time of service of this summons and between the time of service of this
496 summons to and including the one hundred seventy-ninth day thereafter. Not later than
497 45 days after you are served with this summons, you are commanded to file your
498 garnishee answer in writing with the clerk of this court and serve a copy upon the plaintiff
499 or his attorney named below. This garnishee answer shall state what property, money,
500 and wages, except what is exempt, belonging to the defendant, or debts owed to the
501 defendant, you hold or owe at the time of service of this summons and between the time
502 of such service and the time of making your first garnishee answer. Thereafter, you are
503 required to file further garnishee answers no later than 45 days after your last garnishee
504 answer. Every further garnishee answer shall state what property, money, and wages,
505 except what is exempt, belonging to the defendant, or debts owed to the defendant, you
506 hold or owe at and from the time of the last garnishee answer to the time of the current
507 garnishee answer. The last garnishee answer required by this summons shall be filed no
508 later than the one hundred ninety-fifth day after you receive this summons. Money or
509 other property admitted in an garnishee answer to be subject to continuing garnishment
510 ~~must~~ shall be delivered to the court with your garnishee answers. Should you fail to file
511 garnishee answers as required by this summons, a judgment will be rendered against you
512 for the amount the plaintiff claims due by the defendant.

513 Witness the Honorable _____, Judge of said Court.

514 This _____ day of _____, _____.

515 _____

516 Clerk,

517 _____ Court of _____ County

518 _____

519 Plaintiff's attorney

520 _____

521 Address

522 Service perfected on garnishee, this _____ day of _____, ____.

523 _____
524 Deputy marshal, sheriff,
525 or constable

526 (3) Garnishee answer ~~Answer~~ of continuing garnishment.

527 IN THE _____ COURT OF _____ COUNTY
528 STATE OF GEORGIA

529 _____)
530 Plaintiff)
531)
532 v.) Civil action
533) File no. ____
534 _____)
535 Defendant)
536)
537 _____)
538 Garnishee)
539)
540 _____)
541 Address)

542 GARNISHEE ANSWER OF CONTINUING GARNISHMENT

543 1.
544 From the time of service of this summons of continuing garnishment, if this is the first
545 garnishee answer to such summons, otherwise from the time of the last garnishee answer
546 to this summons of continuing garnishment, until the time of this garnishee answer,
547 garnishee had in ~~his~~ garnishee's possession the following described property of the
548 defendant:

549 _____
550 _____

551 2.
552 From the time of service of this summons of continuing garnishment, if this is the first
553 garnishee answer to such summons, otherwise from the time of the last garnishee answer

554 to this summons of continuing garnishment, until the time of this garnishee answer, all
555 debts accruing from garnishee to the defendant are in the amount of \$_____.

556 3.

557 \$_____ of the amount named in paragraph 2 was wages earned at the rate of
558 \$_____ per _____ for the period beginning _____ (date), _____, through the time
559 of making this garnishee answer. The amount of wages which is subject to this
560 garnishment is computed as follows:

- 561 \$_____ Gross earnings
- 562 \$_____ Total social security and withholding tax
- 563 \$_____ Total disposable earnings
- 564 \$_____ Amount of wages subject to continuing garnishment

565 4.

566 () If checked, defendant is not presently employed by this garnishee and, if employed
567 by garnishee on or after service of this summons of continuing garnishment, was most
568 recently terminated as of the _____ day of _____, _____.

569 5.

570 () If checked, this is the last garnishee answer this garnishee is required to file to the
571 presently pending summons of continuing garnishment in the above-styled case.

572 6.

573 Garnishee further states: _____.

574 _____
 575 Garnishee, ~~or his~~
 576 attorney at law
 577 garnishee's attorney, or officer
 578 or employee of an entity garnishee

579 (CERTIFICATE OF SERVICE)"

580 **SECTION 17.**

581 Said chapter is further amended by revising Code Sections 18-4-133 through 18-4-135,
582 relating to service of summons, filing further garnishee answers and tendering money, and
583 period of attachment of writ of garnishment, respectively, as follows:

584 "18-4-133.

585 (a) The summons of continuing garnishment for support shall be directed to the garnishee
586 who shall be required to file a first garnishee answer no later than 45 days after service,
587 which garnishee answer shall state what earnings were payable to the defendant from the
588 time of service through and including the day of the first garnishee answer and the basis

589 for the computation of same, including the rate of pay and hours worked, or salaries,
590 commissions, or other basis of compensation.

591 (b) The garnishee shall accompany such initial garnishee answer with money of the
592 defendant admitted in the garnishee answer to be subject to continuing garnishment for
593 support. In computing the amounts subject to this article, the provisions of subsection (f)
594 of Code Section 18-4-20 shall control.

595 (c) The money paid into court with the initial garnishee answer, after deduction for costs,
596 shall be first applied to the periodic support payment accrued on a daily basis from the date
597 of the affidavit of the plaintiff to the date of the initial garnishee answer. All sums in
598 excess of such periodic payment shall be applied to the original arrearage. Original
599 arrearage shall mean those arrears existing as of the date of the making of the plaintiff's
600 affidavit, plus any amounts includable pursuant to subsection (b) of Code Section
601 18-4-134.

602 18-4-134.

603 (a) If the amount claimed as original arrearage as of the date of the making of the
604 plaintiff's affidavit is not satisfied by the money payable into court under the initial
605 garnishee answer ~~of the garnishee~~, after application of the funds as set forth in subsection
606 (c) of Code Section 18-4-133, the garnishee shall file further garnishee answers no later
607 than 45 days after the previous garnishee answer date, stating the earnings accrued and the
608 basis of their accrual and tendering such money accruing in such ~~answer~~ period. The
609 amounts paid into court pursuant to subsequent garnishee answers, over and above the
610 periodic payment accruing within such ~~answer~~ period, shall be applied to the original
611 arrearage until the same is retired.

612 (b) If the earnings paid into court pursuant to any garnishee answer ~~by the garnishee~~ are
613 less than the sums due under the periodic support requirement accruing over the same
614 period of time, after allowance for any costs deductible from same, the resulting difference
615 shall be added to the amount due as original arrearage until the same is retired by
616 subsequent payments.

617 (c) The garnishee shall file additional garnishee answers until the original arrearage is
618 retired and all periodic support payments are current.

619 (d) Upon the termination of employment of the defendant by the garnishee, the garnishee
620 shall be required to file a final garnishee answer stating the date and reason for the
621 defendant's termination from employment and stating, to the best of the garnishee's
622 information, the defendant's present residential address and employer.

623 18-4-135.

624 The writ of garnishment described in this article shall attach for so long as the defendant
625 is employed by the garnishee and shall not terminate until the original arrearage is retired.
626 The garnishee may rely upon the information as to the termination date of the duty of
627 support of any individual claimed in the affidavit of garnishment, the amount of the duty
628 of periodic support to be paid, any sums paid by the defendant between the date of the
629 filing of the plaintiff's affidavit and the date of the initial garnishee answer ~~of the garnishee~~,
630 and the amount of the original arrearage existing as of the date of the affidavit of
631 garnishment, unless the same are traversed by the defendant and the court enters any
632 finding otherwise."

633 **SECTION 18.**

634 This Act shall become effective upon its approval by the Governor or upon its becoming law
635 without such approval.

636 **SECTION 19.**

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