

Senate Bill 353

By: Senators Jones of the 10th, Jackson of the 2nd, Davenport of the 44th and Stoner of the 6th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 9-11-55 of the Official Code of Georgia Annotated, relating to
2 default judgment, so as to require the plaintiff to provide notice of default to the defaulting
3 party prior to obtaining a default judgment; to provide for related matters; to repeal
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Code Section 9-11-55 of the Official Code of Georgia Annotated, relating to default
8 judgment, is amended by revising subsection (a) as follows:

9 "(a) **When case in default; opening as matter of right; judgment.**

10 (1) If in any case an answer has not been filed within the time required by this chapter,
11 the case shall automatically become in default unless the time for filing the answer has
12 been extended as provided by law. As soon as the case becomes in default, the plaintiff
13 shall mail, by first-class mail, a notice to the defendant at the defendant's last known
14 address, advising the defendant that a complaint was filed against the defendant and that
15 the case is in default.

16 (2) The default may be opened as a matter of right by the filing of ~~such defenses~~ an
17 answer within 15 days of the day of default, upon the payment of costs.

18 (3) If the case is still in default after the expiration of the period of 15 days, and the
19 plaintiff affirms that he or she has provided notice to the defendant as required by
20 paragraph (1) of this subsection, the plaintiff at any time thereafter shall be entitled to
21 verdict and judgment by default, in open court or in chambers, as if every item and
22 paragraph of the complaint or other original pleading were supported by proper evidence,
23 without the intervention of a jury, unless the action is one ex delicto or involves
24 unliquidated damages, in which event the plaintiff shall be required to introduce evidence
25 and establish the amount of damages before the court without a jury, with the right of the
26 defendant to introduce evidence as to damages and the right of either to move for a new

27 trial in respect of such damages; provided, however, that in the event a defendant, though
28 in default, has placed damages in issue by filing a pleading raising such issue, either party
29 shall be entitled, upon demand, to a jury trial of the issue as to damages.

30 (4) An action based upon open account shall not be considered one for unliquidated
31 damages within the meaning of this Code section."

32 **SECTION 2.**

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