

The Senate Special Judiciary Committee offered the following substitute to SB 348:

A BILL TO BE ENTITLED

AN ACT

To amend Code Section 9-11-4 of the Official Code of Georgia Annotated, relating to process, so as to change provisions relating to personal service of a summons on a corporation; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 9-11-4 of the Official Code of Georgia Annotated, relating to process, is amended by revising subsection (e) as follows:

"(e) **Summons — Personal service.** Except for cases in which the defendant has waived service, the summons and complaint shall be served together. The plaintiff shall furnish the clerk of the court with such copies as are necessary. Service shall be made by delivering a copy of the summons attached to a copy of the complaint as follows:

(1) If the action is against a corporation incorporated or domesticated under the laws of this state or a foreign corporation authorized to transact business in this state, to ~~the president or other officer of the corporation, secretary, cashier, managing agent, or other~~ the registered agent thereof, provided that when for any reason service cannot be had ~~in such manner on the registered agent~~, the Secretary of State shall be an agent of such corporation upon whom any process, notice, or demand may be served. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with him or her or with any other person or persons designated by the Secretary of State to receive such service a copy of such process, notice, or demand, along with a copy of the affidavit to be submitted to the court pursuant to this Code section. The plaintiff or the plaintiff's attorney shall certify in writing to the Secretary of State that he or she has forwarded by registered mail or statutory overnight delivery such process, service, or demand to the last registered ~~office or~~ agent listed on the records of the Secretary of State, that service cannot be effected ~~at such office upon the registered agent~~, and that it therefore appears that the corporation has failed ~~either to maintain a registered office or~~ to appoint a registered agent in this state. ~~Further, if it shall appear~~

28 ~~from such certification that there is a last known address of a known officer of the~~
29 ~~corporation outside the state, the plaintiff shall, in addition to and after such service upon~~
30 ~~the Secretary of State, mail or cause to be mailed to the known officer at the address by~~
31 ~~registered or certified mail or statutory overnight delivery a copy of the summons and a~~
32 ~~copy of the complaint.~~ Any such service by certification to the Secretary of State shall
33 be answerable not more than 30 days from the date the Secretary of State receives such
34 certification;

35 (2) If the action is against a foreign corporation or a nonresident individual, partnership,
36 joint-stock company, or association, doing business and having a managing or other
37 agent, cashier, or secretary within this state, to such agent, cashier, or secretary or to an
38 agent designated for service of process;

39 (3) If against a minor, to the minor, personally, and also to such minor's father, mother,
40 guardian, or duly appointed guardian ad litem unless the minor is married, in which case
41 service shall not be made on the minor's father, mother, or guardian;

42 (4) If against a person residing within this state who has been judicially declared to be
43 of unsound mind or incapable of conducting his or her own affairs and for whom a
44 guardian has been appointed, to the person and also to such person's guardian and, if there
45 is no guardian appointed, then to his or her duly appointed guardian ad litem;

46 (5) If against a county, municipality, city, or town, to the chairman of the board of
47 commissioners, president of the council of trustees, mayor or city manager of the city or
48 to an agent authorized by appointment to receive service of process. If against any other
49 public body or organization subject to an action, to the chief executive officer or clerk
50 thereof;

51 (6) If the principal sum involved is less than \$200.00 and if reasonable efforts have been
52 made to obtain personal service by attempting to find some person residing at the most
53 notorious place of abode of the defendant, then by securely attaching the service copy of
54 the complaint in a conspicuously marked and waterproof packet to the upper part of the
55 door of the abode and on the same day mailing by certified or registered mail or statutory
56 overnight delivery an additional copy to the defendant at his or her last known address,
57 if any, and making an entry of this action on the return of service; or

58 (7) In all other cases to the defendant personally, or by leaving copies thereof at the
59 defendant's dwelling house or usual place of abode with some person of suitable age and
60 discretion then residing therein, or by delivering a copy of the summons and complaint
61 to an agent authorized by appointment or by law to receive service of process."

62 **SECTION 2.**

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