

The House Committee on Judiciary offers the following substitute to SB 113:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 9-11-4 of the Official Code of Georgia Annotated, relating to
2 process, so as to change provisions relating to personal service of a summons on a
3 corporation and foreign corporation under certain circumstances; to provide for a definition;
4 to provide for related matters; to repeal 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 9-11-4 of the Official Code of Georgia Annotated, relating to process, is
8 amended by revising subsection (e) as follows:

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

13 (1)(A) If the action is against a corporation incorporated or domesticated under the
14 laws of this state or a foreign corporation authorized to transact business in this state,
15 to the president or other officer of ~~the corporation, secretary, cashier, such corporation~~
16 or foreign corporation, or a managing agent, or other agent thereof, provided that when
17 for any reason service cannot be had in such manner, the Secretary of State shall be an
18 agent of such corporation or foreign corporation upon whom any process, notice, or
19 demand may be served. Service on the Secretary of State of any such process, notice,
20 or demand shall be made by delivering to and leaving with him or her or with any other
21 person or persons designated by the Secretary of State to receive such service a copy
22 of such process, notice, or demand, along with a copy of the affidavit to be submitted
23 to the court pursuant to this Code section. The plaintiff or the plaintiff's attorney shall
24 certify in writing to the Secretary of State that he or she has forwarded by registered
25 mail or statutory overnight delivery such process, service, or demand to the last
26 registered office or registered agent listed on the records of the Secretary of State, that

27 service cannot be effected at such office, and that it therefore appears that ~~the~~ such
 28 corporation or foreign corporation has failed either to maintain a registered office or to
 29 appoint a registered agent in this state. Further, if it ~~shall appear~~ appears from such
 30 certification that there is a last known address of a known officer of ~~the~~ such
 31 corporation or foreign corporation outside ~~the~~ this state, the plaintiff shall, in addition
 32 to and after such service upon the Secretary of State, mail or cause to be mailed to the
 33 known officer at the address by registered or certified mail or statutory overnight
 34 delivery a copy of the summons and a copy of the complaint. Any such service by
 35 certification to the Secretary of State shall be answerable not more than 30 days from
 36 the date the Secretary of State receives such certification;.

37 (B) As used in this paragraph, the term 'managing agent' means a person employed by
 38 a corporation or a foreign corporation who is at an office or facility in this state and
 39 who has managerial or supervisory authority for such corporation or foreign
 40 corporation;

41 (2)(A) If the action is against a ~~foreign corporation~~ or a nonresident individual,
 42 partnership, joint-stock company, or association; doing business and having a managing
 43 ~~or other agent, cashier, or secretary~~ within this state, to such agent, ~~cashier, or secretary~~
 44 or to an agent designated for service of process;.

45 (B) As used in this paragraph, the term 'managing agent' means a person employed by
 46 a nonresident individual, partnership, joint-stock company, or association doing
 47 business in this state who is at an office or facility in this state and who has managerial
 48 or supervisory authority for such nonresident individual, partnership, joint-stock
 49 company, or association;

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

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

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

62 (6) If the principal sum involved is less than \$200.00 and if reasonable efforts have been
 63 made to obtain personal service by attempting to find some person residing at the most

64 notorious place of abode of the defendant, then by securely attaching the service copy of
65 the complaint in a conspicuously marked and waterproof packet to the upper part of the
66 door of the abode and on the same day mailing by certified or registered mail or statutory
67 overnight delivery an additional copy to the defendant at his or her last known address,
68 if any, and making an entry of this action on the return of service; or
69 (7) In all other cases to the defendant personally, or by leaving copies thereof at the
70 defendant's dwelling house or usual place of abode with some person of suitable age and
71 discretion then residing therein, or by delivering a copy of the summons and complaint
72 to an agent authorized by appointment or by law to receive service of process."

73 **SECTION 2.**

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