

## HOUSE SUBSTITUTE TO SENATE BILL 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 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, a managing agent, or other agent thereof, or a registered agent  
 17 thereof, provided that when for any reason service cannot be had in such manner, the  
 18 Secretary of State shall be an agent of such corporation or foreign corporation upon  
 19 whom any process, notice, or demand may be served. Service on the Secretary of State  
 20 of any such process, notice, or demand shall be made by delivering to and leaving with  
 21 him or her or with any other person or persons designated by the Secretary of State to  
 22 receive such service a copy of such process, notice, or demand, along with a copy of  
 23 the affidavit to be submitted to the court pursuant to this Code section. The plaintiff or  
 24 the plaintiff's attorney shall certify in writing to the Secretary of State that he or she has  
 25 forwarded by registered mail or statutory overnight delivery such process, service, or  
 26 demand to the last registered office or registered agent listed on the records of the

27 Secretary of State, that service cannot be effected at such office, and that it therefore  
 28 appears that ~~the~~ such corporation or foreign corporation has failed either to maintain a  
 29 registered office or to appoint a registered agent in this state. Further, if it ~~shall appear~~  
 30 appears from such certification that there is a last known address of a known officer of  
 31 ~~the~~ such corporation or foreign corporation outside ~~the~~ this state, the plaintiff shall, in  
 32 addition to and after such service upon the Secretary of State, mail or cause to be  
 33 mailed to the known officer at the address by registered or certified mail or statutory  
 34 overnight delivery a copy of the summons and a copy of the complaint. Any such  
 35 service by certification to the Secretary of State shall be answerable not more than 30  
 36 days from 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 doing business in this state  
 42 without authorization to transact business in this state that has a managing agent or  
 43 against a nonresident individual, partnership, joint-stock company, or association; doing  
 44 business and having in this state that has a managing or other agent, cashier, or  
 45 secretary within this state; to such agent, cashier, or secretary or to an a registered agent  
 46 designated for service of process;.

47 (B) As used in this paragraph, the term 'managing agent' means a person employed by  
 48 a foreign corporation doing business in this state without authorization to transact  
 49 business in this state or a nonresident individual, partnership, joint-stock company, or  
 50 association doing business in this state who is at an office or facility in this state and  
 51 who has managerial or supervisory authority for such foreign corporation, nonresident  
 52 individual, partnership, joint-stock company, or association;

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

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

60 (5) If against a county, municipality, city, or town, to the chairman of the board of  
 61 commissioners, president of the council of trustees, mayor or city manager of the city, or  
 62 to an agent authorized by appointment to receive service of process. If against any other

63 public body or organization subject to an action, to the chief executive officer or clerk  
64 thereof;

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

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

76 **SECTION 2.**

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