

House Bill 928

By: Representatives Knight of the 130<sup>th</sup> and Caldwell of the 131<sup>st</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 44-7-53 of the Official Code of Georgia Annotated, relating to the  
2 issuance of a writ of possession, trial of issues, and possession pending trial in dispossessory  
3 proceedings, so as to provide for summary dispossessory judgments in dispossessory  
4 proceedings; 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 44-7-53 of the Official Code of Georgia Annotated, relating to the issuance of  
8 a writ of possession, trial of issues, and possession pending trial in dispossessory  
9 proceedings, is amended as follows:

10 "44-7-53.

11 (a) If the tenant fails to answer as provided in subsection (b) of Code Section 44-7-51, the  
12 court shall issue a writ of possession instanter notwithstanding Code Section 9-11-55 or  
13 Code Section 9-11-62. The court, without the intervention of a jury, shall not require any  
14 further evidence nor hold any hearings and the plaintiff shall be entitled to a verdict and  
15 judgment by default for all rents due as if every item and paragraph of the affidavit  
16 provided for in Code Section 44-7-50 were supported by proper evidence.

17 (b) If the tenant answers, the landlord may move for a summary dispossessory judgment  
18 in his or her favor for possession of the premises. Such motion shall be served upon the  
19 tenant by statutory overnight delivery on the same day such motion is filed with the court  
20 where service by mail is complete upon mailing and shall include a certificate of service  
21 and notice to the tenant of his or her right to respond to the motion within five days. Upon  
22 the expiration of five days after service of the motion upon the tenant, the judgment sought  
23 shall be rendered forthwith and the court shall issue a writ of possession to be effective at  
24 the expiration of seven days after the date such judgment was entered, except as otherwise  
25 provided in Code Section 44-7-56 and notwithstanding Code Section 9-11-62, if the  
26 landlord's affidavit provided for in Code Section 44-7-50 and the tenant's answer provided

27 for in Code Section 44-7-51 show that there is no genuine issue as to any material fact that  
28 the tenant holds possession of lands or tenements over and beyond the term for which they  
29 were rented or leased to the tenant, or the tenant has failed to pay the rent when it becomes  
30 due, or the tenant otherwise holds and occupies lands or tenements as a tenant at will or  
31 sufferance, whether under contract of rent or not, and the landlord has demanded  
32 possession of the property so rented, leased, held, or occupied. A summary dispossessory  
33 judgment for rents owed shall not be entered, and the court shall conduct a trial of the  
34 issues as provided for in subsection (c) of this Code section for any rents owed.  
35 ~~(b)~~(c) Except as provided for in subsection (b) of this Code section, if ~~if~~ the tenant  
36 answers, a trial of the issues shall be had in accordance with the procedure prescribed for  
37 civil actions in courts of record except that if the action is tried in the magistrate court the  
38 trial shall be had in accordance with the procedures prescribed for that court. Every effort  
39 should be made by the trial court to expedite a trial of the issues. Except as provided for  
40 in subsection (b) of this Code section, the ~~The~~ defendant shall be allowed to remain in  
41 possession of the premises pending the final outcome of the litigation; provided, however,  
42 that, at the time of his or her answer, the tenant must pay rent into the registry of the court  
43 pursuant to Code Section 44-7-54."

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**SECTION 2.**

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