

House Bill 204

By: Representatives Beskin of the 54th, Willard of the 51st, Pak of the 108th, Caldwell of the 131st, Oliver of the 82nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to the
2 "Civil Practice Act," so as to change provisions relating to when opposing affidavits shall be
3 served in motions for summary judgment; to provide for related matters; to repeal conflicting
4 laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to the "Civil
8 Practice Act," is amended by revising subsection (d) of Code Section 9-11-6, relating to time,
9 as follows:

10 "(d) **For motions; for affidavits.** A written motion, other than one which may be heard
11 ex parte, and notice of the hearing thereof shall be served not later than five days before the
12 time specified for the hearing, unless a different period is fixed by this chapter or by order
13 of the court. Such an order may for cause shown be made on ex parte application. When
14 a motion is supported by affidavit, the affidavit shall be served with the motion. Except
15 as provided in Code Section 9-11-56, opposing ~~Opposing~~ affidavits ~~may~~ shall be served
16 not later than one business day before the hearing, unless the court permits them to be
17 served at some other time."

18 style="text-align:center">**SECTION 2.**

19 Said chapter is further amended by revising subsection (c) of Code Section 9-11-56, relating
20 to summary judgment, as follows:

21 "(c) **Motion and proceedings thereon.** The motion shall be served at least 30 days before
22 the time fixed for the hearing. The adverse party ~~prior to the day of hearing may~~ shall
23 serve opposing affidavits not later than seven days before the time fixed for the hearing.
24 The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to
25 interrogatories, and admissions on file, together with the affidavits, if any, show that there

26 is no genuine issue as to any material fact and that the moving party is entitled to a
27 judgment as a matter of law; but nothing in this Code section shall be construed as denying
28 to any party the right to trial by jury ~~where~~ when there are substantial issues of fact to be
29 determined. A summary judgment may be rendered on the issue of liability alone although
30 there is a genuine issue as to the amount of damage."

31 **SECTION 3.**

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