

House Bill 616

By: Representative Waites of the 60th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated,
2 relating to dispossessory proceedings, so as to provide that a summons shall be served within
3 ten days; to provide for a default judgment; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 **SECTION 1.**

6 Article 3 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to
7 dispossessory proceedings, is amended by revising subsection (a) of Code Section 44-7-51,
8 relating to issuance of summons, service, time for answer, and defenses and counterclaims,
9 as follows:

10 "(a) When the affidavit provided for in Code Section 44-7-50 is made, the judge of the
11 superior court, the state court, or any other court with jurisdiction over the subject matter
12 or the judge, clerk, or deputy clerk of the magistrate court shall grant and issue a summons
13 to the sheriff or his or her deputy or to any lawful constable of the county where the land
14 is located. A copy of the summons and a copy of the affidavit shall be personally served
15 upon the defendant not later than ten days from the date such summons was issued,
16 excluding Saturdays, Sundays, and state holidays. If the sheriff is unable to serve the
17 defendant personally, service may be had by delivering the summons and the affidavit to
18 any person who is sui juris residing on the premises or, if after reasonable effort no such
19 person is found residing on the premises, by posting a copy of the summons and the
20 affidavit on the door of the premises and, on the same day of such posting, by enclosing,
21 directing, stamping, and mailing by first-class mail a copy of the summons and the affidavit
22 to the defendant at his or her last known address, if any, and making an entry of this action
23 on the affidavit filed in the case."

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SECTION 2.

25 Said article is further amended by revising subsection (b) of Code Section 44-7-53, relating
26 to when writ of possession is issued, trial of issues, and possession pending trial, as follows:

27 "(b) If the tenant answers, a trial of the issues shall be had in accordance with the
28 procedure prescribed for civil actions in courts of record except that if the action is tried
29 in the magistrate court the trial shall be had in accordance with the procedures prescribed
30 for that court. ~~Every effort should be made by the trial court to expedite a trial of the issues~~
31 The trial court shall hold a trial of the issues not later than 30 days following the date the
32 answer is filed. If such trial is not held within such time due solely to the fault of the
33 defendant, the trial court shall issue a writ of possession on the thirtieth day after the
34 answer was filed. The defendant shall be allowed to remain in possession of the premises
35 pending the final outcome of the litigation; provided, however, that, at the time of his or
36 her answer, the tenant must pay rent into the registry of the court pursuant to Code Section
37 44-7-54."

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SECTION 3.

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