

Senate Bill 110

By: Senators Stone of the 23rd, Gooch of the 51st, Dugan of the 30th, Kennedy of the 18th, Miller of the 49th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to  
2 establish the State-wide Business Court pursuant to the Constitution of this state; to provide  
3 for terms of court and where such court shall sit; to provide for location of proceedings; to  
4 provide for subject matter jurisdiction; to provide for filings, pleadings, and fees; to provide  
5 for a judge of the State-wide Business Court; to establish qualifications; to provide for  
6 appointment and approval of such judge; to provide for terms of office; to provide for salary  
7 and other compensation; to authorize rule making; to provide for the appointment of a clerk  
8 of the State-wide Business Court; to provide for law assistants and other employees; to  
9 amend Code Section 45-7-4 of the Official Code of Georgia Annotated, relating to general  
10 provisions regarding salaries and fees, so as to designate a salary for the judge of the  
11 State-wide Business Court; to amend Title 5 of the Official Code of Georgia Annotated,  
12 relating to appeal and error, so as to make conforming changes regarding appeals; to amend  
13 Chapter 4 of Title 9, Title 23, and Code Section 33-39-21 of the Official Code of Georgia  
14 Annotated, relating to declaratory judgments, equity, and equitable relief relative to  
15 insurance, respectively, so as to make conforming changes regarding equity; to provide for  
16 related matters; to provide for an effective date; to repeal conflicting laws; and for other  
17 purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 style="text-align:center">**PART I**  
20 style="text-align:center">**SECTION 1-1.**

21 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by adding  
22 a new chapter to read as follows:

23 "CHAPTER 5A

24 15-5A-1.

25 There shall be a state-wide business court as provided for in Article VI of the Constitution  
26 of this state to be known as the State-wide Business Court.

27 15-5A-2.

28 (a) The terms of court for the State-wide Business Court shall be the same as the terms of  
29 court for the Supreme Court.

30 (b) The State-wide Business Court shall sit at the seat of government in Atlanta and shall  
31 conduct proceedings and trials in locations as provided for in this Code section.

32 (c)(1) All cases before the State-wide Business Court may have pretrial proceedings  
33 conducted at the seat of government or conducted in the county in which the trial of such  
34 case must be conducted pursuant to the Constitution of this state. In his or her discretion,  
35 the judge of the State-wide Business Court may conduct pretrial proceedings by means  
36 of telephone or video conferencing pursuant to the rules of the State-wide Business Court.

37 (2) Any trial of a case that is before the State-wide Business Court shall take place in the  
38 county as prescribed by the Constitution of this state.

39 (d) Except as provided for under this chapter, the trial of a case before the State-wide  
40 Business Court, whether a bench trial or jury trial, shall be conducted and presided over in  
41 like manner as if such case was being heard in the superior court or state court from which  
42 it was transferred or removed or, if such case was initiated by the filing of a pleading with  
43 the State-wide Business Court, then in like manner as if such case was being heard in the  
44 superior court wherein venue is otherwise proper under the Constitution of this state. The  
45 clerk of the superior court or state court wherein venue for such case is otherwise proper  
46 shall render assistance to the State-wide Business Court for purposes of providing for jury  
47 trials.

48 (e) If the judge of the State-wide Business Court must recuse himself or herself from a  
49 case pending before the court, he or she shall notify the Chief Justice of the Supreme Court  
50 who shall appoint any senior judge of the superior court or state court or any judge of a  
51 business court division of a superior court to sit by designation as judge of the State-wide  
52 Business Court for purposes of presiding over such case.

53 15-5A-3.

54 (a) Pursuant to the process provided for in Code Section 15-5A-4, the State-wide Business  
55 Court shall have authority to exercise the powers of a court of equity and concurrent  
56 jurisdiction in cases brought pursuant to, subject to, or involving:

- 57 (1) Part 1 of Article 1 of Chapter 9 of Title 9, the 'Georgia Arbitration Code';  
58 (2) Part 2 of Article 1 of Chapter 9 of Title 9, the 'Georgia International Commercial  
59 Arbitration Code,' for which an application may be made to a court of this state;  
60 (3) Article 27 of Chapter 1 of Title 10, the 'Georgia Trade Secrets Act of 1990';  
61 (4) Securities, including, but not limited to, disputes arising under Chapter 5 of Title 10,  
62 the 'Georgia Uniform Securities Act of 2008';  
63 (5) Title 11, the 'Uniform Commercial Code';  
64 (6) Chapter 2 of Title 14, the 'Georgia Business Corporation Code';  
65 (7) Chapter 8 of Title 14, the 'Uniform Partnership Act';  
66 (8) Chapter 9 of Title 14, the 'Georgia Revised Uniform Limited Partnership Act';  
67 (9) Chapter 9A of Title 14, the 'Uniform Limited Partnership Act';  
68 (10) Chapter 11 of Title 14, the 'Georgia Limited Liability Company Act';  
69 (11) Any contract or tort claim or dispute involving a business-to-consumer relationship  
70 if by agreement of the parties pursuant to Code Section 15-5A-4;  
71 (12) Where the amount in controversy is at least \$100,000.00:  
72 (A) A complaint that includes professional malpractice claims arising out of a business  
73 dispute that do not involve physical injury inflicted upon the body of a person;  
74 (B) Tort claims between or among two or more business entities or individuals as to  
75 their business or investment activities relating to contracts, transactions, or relationships  
76 between or among such entities or individuals;  
77 (C) Claims for breach of contract, fraud, or misrepresentation between businesses  
78 arising out of business transactions or relationships; and  
79 (D) E-commerce agreements; technology licensing agreements, including, but not  
80 limited to, software and biotechnology license agreements; or any other agreement  
81 involving the licensing of any intellectual property right, including, but not limited to,  
82 an agreement relating to patent rights;  
83 (13) Where the amount in controversy is at least \$1 million, claims concerning  
84 commercial real property, except for residential landlord and tenant disputes and  
85 foreclosures;  
86 (14) Registration and use of trademarks, service marks, and trade names, including, but  
87 not limited to, disputes arising under Article 16 of Chapter 1 of Title 10;  
88 (15) Receiverships of businesses;  
89 (16) Trade secrets;  
90 (17) Noncompetition covenants; and  
91 (18) Antitrust laws or restraint of trade.  
92 (b) The State-wide Business Court shall have the authority to punish contempt by fines not  
93 exceeding \$1,000.00, by imprisonment not exceeding 20 days, or both, and shall exercise

94 such other powers, not contrary to the Constitution, as are or may be given to such a court  
 95 by law.

96 (c) The State-wide Business Court shall have supplemental jurisdiction over all pending  
 97 claims that are so related to the claims in cases provided for under subsection (a) of this  
 98 Code section that such pending claims form part of the same case or controversy.

99 15-5A-4.

100 Cases provided for under Code Section 15-5A-3 may come before the State-wide Business  
 101 Court by:

102 (1) The filing of a pleading with the State-wide Business Court to initiate a civil action;  
 103 provided, however, that any defendant within 60 days of filing may petition the  
 104 State-wide Business Court to transfer such action to the superior court or state court with  
 105 which venue is otherwise proper and the judge of the State-wide Business Court shall  
 106 compel transfer of the case to such superior court or state court;

107 (2) The filing of a petition with the State-wide Business Court by any defendant to an  
 108 action already initiated and filed in superior court or state court seeking transfer of such  
 109 action to the State-wide Business Court, provided that:

110 (A) Such petition:

111 (i) Is filed within 60 days after receipt by all defendants, through service of process,  
 112 of a copy of the initial pleading setting forth the claim for relief upon which such  
 113 action is based; or

114 (ii) If the case as reflected in the initial pleading is not transferable, is filed within 60  
 115 days after receipt by all defendants, through service of process or otherwise, of a copy  
 116 of an amended pleading, motion, order, or other document from which it may first be  
 117 ascertained that the case is or has become transferable; and

118 (B) The judge of the State-wide Business Court, after considering the petition and any  
 119 timely response from the other party or parties in the case as provided for in the rules  
 120 of the State-wide Business Court, compels transfer of the case to the State-wide  
 121 Business Court upon finding by written order that the case is within the authority of the  
 122 court pursuant to Code Section 15-5A-3; or

123 (3) Agreement of all parties to an action already initiated and filed in superior court or  
 124 state court seeking removal of such case to the State-wide Business Court and upon the  
 125 filing of such agreement with the State-wide Business Court, provided that such  
 126 agreement is filed within 60 days following the date such action was initiated and filed.

127 15-5A-5.

128 (a) The fee for filing a case with, or having a case transferred or removed to, the  
129 State-wide Business Court shall be \$1,000.00, to be paid by:

130 (1) The party or parties filing the action in, or seeking transfer or removal to, the  
131 State-wide Business Court under paragraph (1) or (2) of Code Section 15-5A-4; or

132 (2) An equal allocation across all parties to an agreement removing the case to the  
133 State-wide Business Court under paragraph (3) of Code Section 15-5A-4.

134 (b) All fees collected by the clerk of the State-wide Business Court pursuant to this Code  
135 section shall be the property of the state and the same shall be paid into the state treasury.

136 15-5A-6.

137 (a)(1) The State-wide Business Court shall consist of one judge and one division.

138 (2) The court shall commence operations on January 1, 2020, and may commence  
139 accepting cases on August 1, 2020.

140 (b) No individual shall be judge of the State-wide Business Court unless, at the time of his  
141 or her appointment, he or she has:

142 (1) Been a resident of this state and a citizen of the United States for at least seven years;

143 (2) Been admitted to practice law for at least seven years; and

144 (3) At least 15 years of legal experience in complex business litigation.

145 15-5A-7.

146 (a) The judge of the State-wide Business Court shall be appointed by the Governor, subject  
147 to confirmation by a majority vote of the Senate Judiciary Committee and a majority vote  
148 of the House Committee on Judiciary; provided, however, that such committees may meet  
149 jointly for deliberation, interview, or informational purposes prior to separately convening  
150 for purposes of voting.

151 (b)(1) The initial judge of the State-wide Business Court shall be appointed and  
152 confirmed by December 31, 2019, and shall serve an initial term beginning on August 1,  
153 2020; provided, however, that beginning on January 1, 2020, such initial judge may  
154 perform the administrative duties required for establishing the State-wide Business Court  
155 and, if so, shall receive compensation as the judge of the State-wide Business Court  
156 beginning on such date and for such purposes.

157 (2)(A) The judge of the State-wide Business Court shall serve for a term of five years  
158 and may be reappointed for any number of consecutive terms so long as he or she meets  
159 the qualifications of appointment at the time of each appointment and is approved as  
160 required by law.

161 (B) Vacancies in the office of judge of the State-wide Business Court shall be filled by  
162 appointment of the Governor in the same manner as provided for in subsection (a) of  
163 this Code section.

164 (c) The judge of the State-wide Business Court shall be deemed to serve the geographical  
165 area of this state.

166 15-5A-8.

167 (a) Before entering on the discharge of his or her duties, the judge of the State-wide  
168 Business Court shall take the oath prescribed for judges of the superior courts, along with  
169 all other oaths required for civil officers.

170 (b)(1) The annual salary of the judge of the State-wide Business Court shall be as  
171 specified in Code Section 45-7-4. Such salary shall be paid in equal monthly  
172 installments.

173 (2) The judge of the State-wide Business Court shall receive expenses and allowances  
174 as provided for in Code Section 45-7-20. If the judge resides 50 miles or more from the  
175 seat of government in Atlanta, such judge shall also receive a mileage allowance for the  
176 use of a personal motor vehicle when devoted to official business as provided for in Code  
177 Section 50-19-7, for not more than one round trip per calendar week to and from the  
178 judge's residence and the seat of government in Atlanta by the most practical route,  
179 during each regular and extraordinary session of court. In the event the judge travels by  
180 public carrier for any part of a round trip as provided above, such judge shall receive a  
181 travel allowance of actual transportation costs for each such part in lieu of the mileage  
182 allowance. Transportation costs incurred by the judge for air travel to and from the  
183 judge's residence to the seat of government in Atlanta shall be reimbursed only to the  
184 extent that such costs do not exceed the cost of travel by personal motor vehicle. All  
185 allowances provided for in this paragraph shall be paid upon the submission of proper  
186 vouchers.

187 (3) If the judge resides 50 miles or more from the seat of government in Atlanta, such  
188 judge shall also receive the same daily expense allowance as members of the General  
189 Assembly receive, as set forth in Code Section 28-1-8, for not more than 35 days during  
190 each term of court. Such days shall be utilized only when official court business is being  
191 conducted. All allowances provided for in this paragraph shall be paid upon the  
192 submission of proper vouchers.

193 (c) The salary provided for in subsection (b) of this Code section shall be the total  
194 compensation to be paid by the state to the judge of the State-wide Business Court and  
195 shall be in lieu of any and all other amounts to be paid from state funds.

196 15-5A-9.

197 By July 1, 2020, and thereafter, the State-wide Business Court shall maintain rules to  
198 effectuate its purposes. Such rules shall generally conform to Chapter 11 of Title 9, the  
199 'Georgia Civil Practice Act,' where related and applicable. The Supreme Court shall  
200 provide for the promulgation and implementation of such rules.

201 15-5A-10.

202 (a) There shall be a clerk of the State-wide Business Court. Such clerk shall be appointed  
203 by the Governor, subject to approval by a majority vote of the Senate Judiciary Committee  
204 and a majority vote of the House Committee on Judiciary; provided, however, that such  
205 committees may meet jointly for deliberation, interview, or informational purposes prior  
206 to separately convening for purposes of voting.

207 (b)(1) The initial clerk of the State-wide Business Court shall be appointed and  
208 confirmed by December 31, 2019, and shall serve an initial term beginning on August 1,  
209 2020; provided, however, that beginning on January 1, 2020, such initial clerk may  
210 perform the administrative duties required for establishing the State-wide Business Court  
211 and, if so, shall receive compensation as the clerk of the State-wide Business Court  
212 beginning on such date and for such purposes.

213 (2)(A) The clerk of the State-wide Business Court shall serve for a term of five years  
214 and may be reappointed for any number of consecutive terms.

215 (B) Vacancies in the office of clerk of the State-wide Business Court shall be filled by  
216 appointment of the Governor in the same manner as provided for in subsection (a) of  
217 this Code section.

218 (c) The judge of the State-wide Business Court is authorized to fix the annual  
219 compensation of the clerk in the form of a salary and expenses, provided that such  
220 compensation shall be within the amount of money appropriated for such purposes.

221 15-5A-11.

222 (a) The offices of the judge and clerk of the State-wide Business Court shall sit at the seat  
223 of government in Atlanta pursuant to subsection (b) of Code Section 15-5A-2.

224 (b) The judge of the State-wide Business Court, in coordination with the clerk of the  
225 State-wide Business Court, shall be responsible for designating an electronic filing system  
226 and the procedures for filing that shall be articulated in the rules of the State-wide Business  
227 Court.

228 15-5A-12.

229 (a) The judge of the State-wide Business Court shall be authorized to appoint law  
230 assistants for the use of the court and to remove them at pleasure. Each law assistant of the  
231 State-wide Business Court shall have been admitted to the bar of this state as a practicing  
232 attorney; provided, however, that an individual who graduated from law school but who  
233 is not a member of the bar of this state may be appointed as a law assistant so long as he  
234 or she is admitted to the bar of this state within one year of such appointment.

235 (b) It shall be the duty of a law assistant to attend all sessions of the court, if so ordered,  
236 and generally to perform the duties incident to the role of law assistant.

237 15-5A-13.

238 The State-wide Business Court may employ and fix the salaries of stenographers, clerical  
239 assistants, and such other employees as may be deemed necessary by the court; and the  
240 salaries therefor shall be paid by the clerk from the appropriations for the operation of the  
241 State-wide Business Court.

242 15-5A-14.

243 The State-wide Business Court shall purchase such books, pamphlets, or other publications  
244 and such other supplies and services as the judge of the State-wide Business Court may  
245 deem necessary. The costs thereof shall be paid by the clerk out of the appropriations for  
246 the operation of the State-wide Business Court."

247 **SECTION 1-2.**

248 Code Section 45-7-4 of the Official Code of Georgia Annotated, relating to general  
249 provisions regarding salaries and fees, is amended by adding a new paragraph to subsection  
250 (a) to read as follows:

251 "(19.1) Judge of the State-wide Business Court . . . . . 174,500.00"

252 **PART II**

253 **SECTION 2-1.**

254 Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is amended  
255 by revising Code Section 5-5-1, relating to power of probate, superior, state, juvenile, and  
256 City of Atlanta courts, as follows:

257 "5-5-1.

258 (a) The superior, state, and juvenile courts, the State-wide Business Court, and the City  
259 Court of Atlanta shall have power to correct errors and grant new trials in cases or



260 collateral issues in any of the respective courts in such manner and under such rules as they  
 261 may establish according to law and the usages and customs of courts.

262 (b) Probate courts shall have power to correct errors and grant new trials in civil cases  
 263 provided for by Article 6 of Chapter 9 of Title 15 under such rules and procedures as apply  
 264 to the superior courts."

265 **SECTION 2-2.**

266 Said title is further amended by revising Code Section 5-6-33, relating to right of appeal  
 267 generally, as follows:

268 "5-6-33.

269 (a)(1) Either party in any civil case and the defendant in any criminal proceeding in the  
 270 superior, state, or city courts, or in the State-wide Business Court, may appeal from any  
 271 sentence, judgment, decision, or decree of the court, or of the judge thereof in any matter  
 272 heard at chambers.

273 (2) Either party in any civil case in the probate courts provided for by Article 6 of  
 274 Chapter 9 of Title 15 may appeal from any judgment, decision, or decree of the court, or  
 275 of the judge thereof in any matter heard at chambers.

276 (b) This Code section shall not affect Chapter 7 of this title."

277 **SECTION 2-3.**

278 Said title is further amended by revising subsection (a) of Code Section 5-6-34, relating to  
 279 judgments and rulings deemed directly appealable, procedure for review of judgments,  
 280 orders, or decisions not subject to direct appeal, scope of review, hearings in criminal cases  
 281 involving a capital offense for which death penalty is sought, and appeals involving  
 282 nonmonetary judgments in child custody cases, as follows:

283 "(a) Appeals may be taken to the Supreme Court and the Court of Appeals from the  
 284 following judgments and rulings of the superior courts, the State-wide Business Court, the  
 285 constitutional city courts, and such other courts or tribunals from which appeals are  
 286 authorized by the Constitution and laws of this state:

287 (1) All final judgments, that is to say, where the case is no longer pending in the court  
 288 below, except as provided in Code Section 5-6-35;

289 (2) All judgments involving applications for discharge in bail trover and contempt cases;

290 (3) All judgments or orders directing that an accounting be had;

291 (4) All judgments or orders granting or refusing applications for receivers or for  
 292 interlocutory or final injunctions;

293 (5) All judgments or orders granting or refusing applications for attachment against  
 294 fraudulent debtors;

- 295 (6) Any ruling on a motion which would be dispositive if granted with respect to a  
 296 defense that the action is barred by Code Section 16-11-173;
- 297 (7) All judgments or orders granting or refusing to grant mandamus or any other  
 298 extraordinary remedy, except with respect to temporary restraining orders;
- 299 (8) All judgments or orders refusing applications for dissolution of corporations created  
 300 by the superior courts;
- 301 (9) All judgments or orders sustaining motions to dismiss a caveat to the probate of a  
 302 will;
- 303 (10) All judgments or orders entered pursuant to subsection (c) of Code Section  
 304 17-10-6.2;
- 305 (11) All judgments or orders in child custody cases awarding, refusing to change, or  
 306 modifying child custody or holding or declining to hold persons in contempt of such child  
 307 custody judgment or orders;
- 308 (12) All judgments or orders entered pursuant to Code Section 35-3-37; and
- 309 (13) All judgments or orders entered pursuant to Code Section 9-11-11.1."

310 **SECTION 2-4.**

311 Said title is further amended by revising paragraphs (11) and (12) of and adding a new  
 312 paragraph to subsection (a) of Code Section 5-6-35, relating to cases requiring application  
 313 for appeal, requirements for application, exhibits, response, issuance of appellate court order  
 314 regarding appeal, procedure, supersedeas, jurisdiction of appeal, and appeals involving  
 315 nonmonetary judgments in custody cases, to read as follows:

- 316 "(11) Appeals from decisions of the state courts reviewing decisions of the magistrate  
 317 courts by de novo proceedings so long as the subject matter is not otherwise subject to  
 318 a right of direct appeal; ~~and~~
- 319 (12) Appeals from orders terminating parental rights; and
- 320 (13) Appeals from orders and decisions of the State-wide Business Court."

321 **SECTION 2-5.**

322 Said title is further amended by revising subsection (c) of Code Section 5-6-41, relating to  
 323 reporting, preparation, and disposition of transcript, correction of omissions or  
 324 misstatements, preparation of transcript from recollections, filing of disallowed papers, filing  
 325 of stipulations in lieu of transcript, and reporting at party's expense, as follows:

- 326 "(c) In all civil cases tried in the superior and city courts, in the State-wide Business Court,  
 327 and in any other court, the judgments of which are subject to review by the Supreme Court  
 328 or the Court of Appeals, the trial judge thereof may require the parties to have the  
 329 proceedings and evidence reported by a court reporter, the costs thereof to be borne equally

330 between them; and, where an appeal is taken which draws in question the transcript of the  
 331 evidence and proceedings, it shall be the duty of the appellant to have the transcript  
 332 prepared at the appellant's expense. Where it is determined that the parties, or either of  
 333 them, are financially unable to pay the costs of reporting or transcribing, the judge may, in  
 334 the judge's discretion, authorize trial of the case unreported; and, when it becomes  
 335 necessary for a transcript of the evidence and proceedings to be prepared, it shall be the  
 336 duty of the moving party to prepare the transcript from recollection or otherwise."

337 **PART III**  
 338 **SECTION 3-1.**

339 Chapter 4 of Title 9 of the Official Code of Georgia Annotated, relating to declaratory  
 340 judgments, is amended by revising Code Section 9-4-2, relating to declaratory judgments  
 341 authorized and force and effect, as follows:

342 "9-4-2.

343 (a) In cases of actual controversy, the respective superior courts of this state, and the  
 344 State-wide Business Court if appropriate jurisdiction can be established, shall have power,  
 345 upon petition or other appropriate pleading, to declare rights and other legal relations of  
 346 any interested party petitioning for such declaration, whether or not further relief is or  
 347 could be prayed; and the declaration shall have the force and effect of a final judgment or  
 348 decree and be reviewable as such.

349 (b) In addition to the cases specified in subsection (a) of this Code section, the respective  
 350 superior courts of this state and the State-wide Business Court shall have power, upon  
 351 petition or other appropriate pleading, to declare rights and other legal relations of any  
 352 interested party petitioning for the declaration, whether or not further relief is or could be  
 353 prayed, in any civil case in which it appears to the court that the ends of justice require that  
 354 the declaration should be made; and the declaration shall have the force and effect of a final  
 355 judgment or decree and be reviewable as such.

356 (c) Relief by declaratory judgment shall be available, notwithstanding the fact that the  
 357 complaining party has any other adequate legal or equitable remedy or remedies."

358 **SECTION 3-2.**

359 Said chapter is further amended by revising Code Section 9-4-5, relating to filing and service,  
 360 time of trial, and drawing of jury, as follows:

361 "9-4-5.

362 A proceeding instituted under this chapter shall be filed and served as are other cases in the  
 363 superior courts of this state or in the State-wide Business Court and may be tried at any

364 time designated by the court not earlier than 20 days after the service thereof, unless the  
 365 parties consent in writing to an earlier trial. If there is an issue of fact which requires a  
 366 submission to a jury, the jury may be drawn, summoned, and sworn either in regular term  
 367 or specially for the pending case."

368 **SECTION 3-3.**

369 Said chapter is further amended by revising Code Section 9-4-10, relating to equity  
 370 jurisdiction not impaired, as follows:

371 "9-4-10.

372 Nothing in this chapter is intended to impair the equity jurisdiction of the superior courts  
 373 of the state or of the State-wide Business Court."

374 **SECTION 3-4.**

375 Title 23 of the Official Code of Georgia Annotated, relating to equity, is amended by revising  
 376 Code Section 23-1-1, relating to equity jurisdiction – vested in superior courts, as follows:

377 "23-1-1.

378 All equity jurisdiction shall be vested in the superior courts of the several counties and in  
 379 the State-wide Business Court if jurisdiction is otherwise appropriate."

380 **SECTION 3-5.**

381 Said title is further amended by revising Code Section 23-4-3, relating to claim of legal and  
 382 equitable relief by defendant, as follows:

383 "23-4-3.

384 A defendant to any action in the superior court or in the State-wide Business Court,  
 385 whether the action is for legal or equitable relief, may claim legal or equitable relief, or  
 386 both, by framing proper pleadings for that purpose and sustaining them by sufficient  
 387 evidence."

388 **SECTION 3-6.**

389 Said title is further amended by revising Code Section 23-4-33, relating to decree in will or  
 390 contract matters and consent of guardian or guardian ad litem, as follows:

391 "23-4-33.

392 When it becomes impossible to carry out any last will and testament in whole or in part,  
 393 and in all matters of contract, the judges of the superior courts, and the judge of the  
 394 State-wide Business Court in matters of contract only, shall have power to render any  
 395 decree that may be necessary and legal, provided that all parties in interest shall consent  
 396 thereto in writing and there shall be no issue as to the facts or, if there is such an issue, that

397 there shall be a like consent in writing that the judge presiding may hear and determine  
398 such facts, subject to a review on appeal, as in other cases. In all cases where minors are  
399 interested, the consent of the guardian at law or the guardian ad litem shall be obtained  
400 before the decree is rendered."

401 **SECTION 3-7.**

402 Said title is further amended by revising Code Section 23-4-37, relating to attachments for  
403 contempt and executions against property, as follows:

404 "23-4-37.

405 Every decree or order of a superior court or the State-wide Business Court in equitable  
406 proceedings may be enforced by attachment against the person for contempt. Decrees for  
407 money may be enforced by execution against the property. If a decree is partly for money  
408 and partly for the performance of a duty, the former may be enforced by execution and the  
409 latter by attachment or other process."

410 **SECTION 3-8.**

411 Code Section 33-39-21 of the Official Code of Georgia Annotated, relating to violation of  
412 chapter – equitable relief, damages recoverable, costs and attorney's fees, statute of  
413 limitations, and limitation on remedy or recovery, is amended by revising subsection (a) as  
414 follows:

415 "(a) If any insurance institution, agent, or insurance-support organization fails to comply  
416 with Code Section 33-39-9, 33-39-10, or 33-39-11 with respect to the rights granted under  
417 those Code sections, any person whose rights are violated may apply to any superior court  
418 of this state; having jurisdiction over the defendant, or to the State-wide Business Court if  
419 proper jurisdiction can be established, for appropriate equitable relief."

420 **PART IV**

421 **SECTION 4-1.**

422 This Act shall become effective upon approval of this Act by the Governor or upon its  
423 becoming law without such approval.

424 **SECTION 4-2.**

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