

The Senate Committee on Judiciary offered the following substitute to HB 239:

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 amend  
16 Article 2 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to  
17 commencement of action and service, so as to revise provisions regarding the electronic  
18 service of pleadings; to provide for related matters; to provide for an effective date; to repeal  
19 conflicting laws; and for other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 style="text-align:center">**PART I**  
22 style="text-align:center">**SECTION 1-1.**

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

"CHAPTER 5A

25

26 15-5A-1.

27 There shall be a state-wide business court as provided for in Article VI of the Constitution  
28 of this state to be known as the State-wide Business Court. Nothing in this chapter shall  
29 preclude a superior court from creating a business court division for its circuit or preclude  
30 a state court from creating a business court division, in the manner provided by law.

31 15-5A-2.

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

34 (b) The State-wide Business Court shall sit in Macon-Bibb County and shall conduct  
35 proceedings and trials in locations as provided for in this Code section.

36 (c)(1) All cases before the State-wide Business Court may have pretrial proceedings  
37 conducted in Macon-Bibb County or conducted in the county in which the trial of such  
38 case must be conducted pursuant to the Constitution of this state. In his or her discretion,  
39 the judge of the State-wide Business Court may conduct pretrial proceedings by means  
40 of telephone, video conferencing, or other efficient technological means as may be  
41 deemed necessary or useful to conserve the resources of the parties or the court pursuant  
42 to the rules of the State-wide Business Court.

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

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

54 (e) When the judge of the State-wide Business Court is disqualified to sit in a case or  
55 proceeding pursuant to the Georgia Code of Judicial Conduct or Code Section 15-1-8, he  
56 or she shall notify the Chief Justice of the Supreme Court who shall appoint any senior  
57 judge of the superior court or state court or any judge of a business court division of a  
58 superior court to sit by designation as judge of the State-wide Business Court for purposes  
59 of presiding over such case.

60 15-5A-3.

61 (a) Except as provided in subsection (b) of this Code section, pursuant to the process  
62 provided for in Code Section 15-5A-4, the State-wide Business Court shall have authority  
63 to:

64 (1) Exercise concurrent jurisdiction and the powers of a court of equity, to the extent that  
65 such powers are exercised:

66 (A) Notwithstanding the amount in controversy, where equitable relief is requested in  
67 claims:

68 (i) Arising under Part 1 of Article 1 of Chapter 9 of Title 9, the 'Georgia Arbitration  
69 Code';

70 (ii) Arising under Part 2 of Article 1 of Chapter 9 of Title 9, the 'Georgia  
71 International Commercial Arbitration Code,' for which an application may be made  
72 to a court of this state;

73 (iii) Arising under Article 27 of Chapter 1 of Title 10, the 'Georgia Trade Secrets Act  
74 of 1990';

75 (iv) Involving securities, including, but not limited to, disputes arising under  
76 Chapter 5 of Title 10, the 'Georgia Uniform Securities Act of 2008';

77 (v) Arising under Title 11, the 'Uniform Commercial Code';

78 (vi) Arising under Chapter 2 of Title 14, the 'Georgia Business Corporation Code';

79 (vii) Arising under Chapter 8 of Title 14, the 'Uniform Partnership Act';

80 (viii) Arising under Chapter 9 of Title 14, the 'Georgia Revised Uniform Limited  
81 Partnership Act';

82 (ix) Arising under Chapter 9A of Title 14, the 'Uniform Limited Partnership Act';

83 (x) Arising under Chapter 11 of Title 14, the 'Georgia Limited Liability Company  
84 Act';

85 (xi) That relate to the internal affairs of businesses, including, but not limited to,  
86 rights or obligations between or among business participants regarding the liability  
87 or indemnity of business participants, officers, directors, managers, trustees, or  
88 partners;

89 (xii) Involving registration and use of trademarks, service marks, and trade names,  
90 including, but not limited to, disputes arising under Article 16 of Chapter 1 of  
91 Title 10;

92 (xiii) Involving noncompetition or nonsolicitation covenants;

93 (xiv) Where the complaint includes a professional malpractice claim arising out of  
94 a business dispute;

- 95 (xv) Involving tort claims between or among two or more business entities or  
 96 individuals as to their business or investment activities relating to contracts,  
 97 transactions, or relationships between or among such entities or individuals;  
 98 (xvi) Involving claims for breach of contract, fraud, or misrepresentation between  
 99 businesses arising out of business transactions or relationships;  
 100 (xvii) Arising from e-commerce agreements; technology licensing agreements,  
 101 including, but not limited to, software and biotechnology license agreements; or any  
 102 other agreement involving the licensing of any intellectual property right, including,  
 103 but not limited to, an agreement relating to patent rights; and  
 104 (xviii) Involving commercial real property; and  
 105 (B) When damages are the only relief requested and the amount in controversy is at  
 106 least:  
 107 (i) One million dollars for claims under subparagraph (A) of this paragraph involving  
 108 commercial real property; or  
 109 (ii) Two hundred and fifty thousand dollars for claims under subparagraph (A) of this  
 110 paragraph not involving commercial real property;  
 111 (2) Exercise concurrent jurisdiction and the powers of a court of equity, to the extent that  
 112 such powers are exercised in claims arising under federal law over which courts of this  
 113 state have concurrent jurisdiction to the extent such claims are provided for under  
 114 paragraph (1) of this subsection;  
 115 (3) Have supplemental jurisdiction over all pending claims that are so related to the  
 116 claims in cases provided for under paragraph (1) or (2) of this subsection that such  
 117 pending claims form part of the same case or controversy;  
 118 (4) Punish contempt by fines not exceeding \$1,000.00, by imprisonment not exceeding  
 119 20 days, or both; and  
 120 (5) Exercise such other powers, not contrary to the Constitution, as are or may be given  
 121 to such a court by law.  
 122 (b) The State-wide Business Court shall not have authority to exercise jurisdiction over  
 123 claims involving:  
 124 (1) Physical injury inflicted upon the body of a person or death;  
 125 (2) Mental or emotional injury inflicted upon a person;  
 126 (3) Residential landlord and tenant disputes; or  
 127 (4) Foreclosures.  
 128 15-5A-4.  
 129 (a) Except as provided in subsection (b) of this Code section, cases provided for under  
 130 Code Section 15-5A-3 may come before the State-wide Business Court by:

131 (1) The filing of a pleading with the State-wide Business Court to initiate a civil action;  
132 provided, however, that any defendant within 60 days after receipt by all defendants,  
133 through service of process, of a copy of the initial pleading setting forth the claim for  
134 relief upon which such action is based may petition the State-wide Business Court to  
135 transfer such action to the superior court or state court with which venue is otherwise  
136 proper and the judge of the State-wide Business Court shall compel transfer of the case  
137 to such superior court or state court, unless the action involves a contract claim or dispute  
138 where all parties are persons engaged in business or business entities and such contract  
139 provides that such dispute shall come before the State-wide Business Court. A contract  
140 with a consumer shall not allow an action to be brought in the State-wide Business Court;  
141 (2) The filing of a petition with the State-wide Business Court by any defendant to an  
142 action already initiated and filed in superior court or state court seeking transfer of such  
143 action to the State-wide Business Court, provided that:

144 (A) Such petition:

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

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

152 (B) No party within 60 days after the filing of such petition objects to such transfer,  
153 and if any party objects, such objection shall compel dismissal of such petition to  
154 transfer, unless the action involves a contract claim or dispute where all parties are  
155 persons engaged in business or business entities and such contract provides that such  
156 dispute shall come before the State-wide Business Court. A contract with a consumer  
157 shall not allow an action to be brought in the State-wide Business Court; and

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

163 (3) Agreement of all parties to an action already initiated and filed in superior court or  
164 state court seeking removal of such case to the State-wide Business Court, where such  
165 agreement was made in writing and signed by all parties after the action was initiated and  
166 filed, and upon the filing of such agreement with the State-wide Business Court, provided  
167 that such agreement is filed within 60 days after receipt by all defendants, through service

168 of process, of a copy of the initial pleading setting forth the claim for relief upon which  
 169 such action is based.

170 (b) The judge of the State-wide Business Court may, upon his or her own motion and in  
 171 consideration of the transfer preferences of the parties, even if the claims within such  
 172 petition or pleading are within the jurisdiction of the State-wide Business Court:

173 (1) Transfer to the superior court or state court any or all claims filed with an action in  
 174 the State-wide Business Court; or

175 (2) Reject acceptance of any pleading initiating an action in, or petition to transfer or  
 176 remove an action to, the State-wide Business Court.

177 (c) Where such pleading, petition, or other document is filed within an applicable statute  
 178 of limitations, such filing shall toll that applicable statute of limitations and such statute of  
 179 limitations shall remain tolled until the date that the State-wide Business Court accepts or  
 180 rejects acceptance of the pleading, petition, or other document as provided in this Code  
 181 section.

182 15-5A-5.

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

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

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

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

193 15-5A-6.

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

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

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

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

200 (2) Been admitted to practice law in this state for at least seven years; and

201 (3) At least 15 years of legal experience in complex business litigation, which experience  
202 shall be presumed by law as being met by virtue of appointment and approval under Code  
203 Section 15-5A-7.

204 15-5A-7.

205 (a) The judge of the State-wide Business Court shall be appointed by the Governor, subject  
206 to approval by a majority vote of the Senate Judiciary Committee and a majority vote of  
207 the House Committee on Judiciary; provided, however, that such committees may meet  
208 jointly for deliberation, interview, or informational purposes prior to separately convening  
209 for purposes of voting; provided, further, that such meetings for voting, deliberation,  
210 interview, or informational purposes may occur while in or out of a legislative session, as  
211 called in the discretion of each such chairperson, with notice provided by the chairpersons  
212 to such committee members.

213 (b)(1) The initial judge of the State-wide Business Court shall be appointed by July 1,  
214 2019, and approved by December 31, 2019, or within three months of the Governor's  
215 appointment, whichever is later, and shall serve an initial term beginning on August 1,  
216 2020; provided, however, that beginning on January 1, 2020, such initial judge may  
217 perform the administrative duties required for establishing the State-wide Business Court  
218 and, if so, shall receive compensation as the judge of the State-wide Business Court  
219 beginning on such date and for such purposes.

220 (2)(A) The judge of the State-wide Business Court shall serve for a term of five years  
221 and may be reappointed for any number of consecutive terms so long as he or she meets  
222 the qualifications of appointment at the time of each appointment and shall be  
223 reappointed and reapproved in the same manner as provided for in subsection (a) of this  
224 Code section.

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

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

230 15-5A-8.

231 Before entering on the duties of his or her office, the judge of the State-wide Business  
232 Court shall take the oath required of all civil officers in addition to the following oath:

233 I swear that I will administer justice without respect to person and do equal rights to the  
234 poor and the rich and that I will faithfully and impartially discharge and perform all the  
235 duties incumbent on me as judge of the State-wide Business Court, according to the best

236 of my ability and understanding, and agreeably to the laws and Constitution of this state  
237 and the Constitution of the United States. So help me God.'

238 15-5A-9.

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

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

245 (2) The judge of the State-wide Business Court shall receive expenses and allowances  
246 as provided for in Code Section 45-7-20. If the judge resides 50 miles or more from  
247 Macon-Bibb County, such judge shall also receive a mileage allowance for the use of a  
248 personal motor vehicle when devoted to official business as provided for in Code Section  
249 50-19-7, for not more than one round trip per calendar week to and from the judge's  
250 residence and the boundary line of Macon-Bibb County by the most practical route,  
251 during each regular and extraordinary session of court. In the event the judge travels by  
252 public carrier for any part of a round trip as provided above, such judge shall receive a  
253 travel allowance of actual transportation costs for each such part in lieu of the mileage  
254 allowance. Transportation costs incurred by the judge for air travel to and from the  
255 judge's residence to Macon-Bibb County shall be reimbursed only to the extent that such  
256 costs do not exceed the cost of travel by personal motor vehicle. All allowances provided  
257 for in this paragraph shall be paid upon the submission of proper vouchers.

258 (3) If the judge resides 50 miles or more from Macon-Bibb County, such judge shall also  
259 receive the same daily expense allowance as members of the General Assembly receive,  
260 as set forth in Code Section 28-1-8, for not more than 35 days during each term of court.  
261 Such days shall be utilized only when official court business is being conducted. All  
262 allowances provided for in this paragraph shall be paid upon the submission of proper  
263 vouchers.

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

267 15-5A-10.

268 (a) The judge of the State-wide Business Court shall have responsibility for creating and,  
269 when needed, making revisions to the rules of the State-wide Business Court and  
270 submitting such rules and revisions to the Supreme Court for approval prior to such rules

271 or revisions taking effect; provided, however, that such rules shall conform to Chapter 11  
272 of Title 9, the 'Georgia Civil Practice Act,' where related and applicable.

273 (b) The judge of the State-wide Business Court is authorized to empanel a commission of  
274 up to eight individuals, who may be judges, to assist the judge in the creation or revision  
275 of such rules; provided, however, that such individuals shall not receive compensation for  
276 being empaneled but may receive a daily expense allowance and travel cost reimbursement  
277 in the amount specified in Code Section 45-7-21.

278 (c) Such rules may include a matrix or guidelines for the acceptance of cases by the  
279 State-wide Business Court, including, but not limited to, such factors as the amount in  
280 controversy, the existence of novel or complex legal issues, and anticipated discovery  
281 issues needing the intervention of the State-wide Business Court.

282 (d) Such rules shall include guidelines and procedures for the filing of pleadings, petitions,  
283 motions, and all other documents, electronically or otherwise, with the State-wide Business  
284 Court.

285 15-5A-11.

286 (a) There shall be a clerk of the State-wide Business Court. Such clerk shall be appointed  
287 by the Governor, subject to approval by a majority vote of the Senate Judiciary Committee  
288 and a majority vote of the House Committee on Judiciary; provided, however, that such  
289 committees may meet jointly for deliberation, interview, or informational purposes prior  
290 to separately convening for purposes of voting; provided, further, that such meetings for  
291 voting, deliberation, interview, or informational purposes may occur while in or out of a  
292 legislative session, as called in the discretion of each such chairperson, with notice  
293 provided by the chairpersons to such committee members.

294 (b)(1) The initial clerk of the State-wide Business Court shall be appointed and approved  
295 by July 31, 2020, and shall serve an initial term beginning on August 1, 2020.

296 (2)(A) The clerk of the State-wide Business Court shall serve for a term of five years  
297 and may be reappointed for any number of consecutive terms and shall be reappointed  
298 and reapproved in the same manner as provided for in subsection (a) of this Code  
299 section.

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

303 (c) The annual compensation of the clerk of the State-wide Business Court shall be equal  
304 to the annual compensation provided for the clerk of the Court of Appeals.

305 15-5A-12.

306 (a) The offices of the judge and clerk of the State-wide Business Court shall sit in  
307 Macon-Bibb County pursuant to subsection (b) of Code Section 15-5A-2.

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

312 15-5A-13.

313 (a) The judge of the State-wide Business Court shall be authorized to appoint law clerks  
314 and staff attorneys for the use of the court and to remove them at pleasure. Each law clerk  
315 and staff attorney of the State-wide Business Court shall have been admitted to the bar of  
316 this state as a practicing attorney; provided, however, that an individual who graduated  
317 from law school but who is not a member of the bar of this state may be appointed as a law  
318 clerk or staff attorney so long as he or she is admitted to the bar of this state within one  
319 year of such appointment.

320 (b) It shall be the duty of a law clerk and staff attorney to attend all sessions of the court,  
321 if so ordered, and generally to perform the duties incident to the role of a law clerk or staff  
322 attorney.

323 15-5A-14.

324 The State-wide Business Court may employ and fix the salaries of stenographers, clerical  
325 assistants, and such other employees as may be deemed necessary by the court; and the  
326 salaries therefor shall be paid by the clerk from the amount appropriated by the General  
327 Assembly for such purposes.

328 15-5A-15.

329 The State-wide Business Court shall purchase such books, pamphlets, or other publications,  
330 whether in hard copy or digital format, and such other supplies and services as the judge  
331 of the State-wide Business Court may deem necessary. The costs thereof shall be paid by  
332 the clerk out of the amount appropriated by the General Assembly for such purposes.

333 15-5A-16.

334 The State-wide Business Court shall be a budget unit as defined in Part 1 of Article 4 of  
335 Chapter 12 of Title 45, the 'Budget Act'; provided, however, that the State-wide Business  
336 Court shall be assigned for administrative purposes only to the Court of Appeals."

337 **SECTION 1-2.**

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

341 "(19.1) Judge of the State-wide Business Court . . . . . 174,500.00"

342 **PART II**  
343 **SECTION 2-1.**

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

347 "5-5-1.

348 (a) The superior, state, and juvenile courts, the State-wide Business Court, and the City  
349 Court of Atlanta shall have power to correct errors and grant new trials in cases or  
350 collateral issues in any of the respective courts in such manner and under such rules as they  
351 may establish according to law and the usages and customs of courts.

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

355 **SECTION 2-2.**

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

358 "5-6-33.

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

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

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

367 **SECTION 2-3.**

368 Said title is further amended by revising subsection (a) of Code Section 5-6-34, relating to  
369 judgments and rulings deemed directly appealable, procedure for review of judgments,

370 orders, or decisions not subject to direct appeal, scope of review, hearings in criminal cases  
 371 involving a capital offense for which death penalty is sought, and appeals involving  
 372 nonmonetary judgments in child custody cases, as follows:

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

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

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

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

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

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

385 (6) Any ruling on a motion which would be dispositive if granted with respect to a  
 386 defense that the action is barred by Code Section 16-11-173;

387 (7) All judgments or orders granting or refusing to grant mandamus or any other  
 388 extraordinary remedy, except with respect to temporary restraining orders;

389 (8) All judgments or orders refusing applications for dissolution of corporations created  
 390 by the superior courts;

391 (9) All judgments or orders sustaining motions to dismiss a caveat to the probate of a  
 392 will;

393 (10) All judgments or orders entered pursuant to subsection (c) of Code Section  
 394 17-10-6.2;

395 (11) All judgments or orders in child custody cases awarding, refusing to change, or  
 396 modifying child custody or holding or declining to hold persons in contempt of such child  
 397 custody judgment or orders;

398 (12) All judgments or orders entered pursuant to Code Section 35-3-37; and

399 (13) All judgments or orders entered pursuant to Code Section 9-11-11.1."

400 **SECTION 2-4.**

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

405 "(c) In all civil cases tried in the superior and city courts, in the State-wide Business Court,  
 406 and in any other court, the judgments of which are subject to review by the Supreme Court  
 407 or the Court of Appeals, the trial judge thereof may require the parties to have the  
 408 proceedings and evidence reported by a court reporter, the costs thereof to be borne equally  
 409 between them; and, where an appeal is taken which draws in question the transcript of the  
 410 evidence and proceedings, it shall be the duty of the appellant to have the transcript  
 411 prepared at the appellant's expense. Where it is determined that the parties, or either of  
 412 them, are financially unable to pay the costs of reporting or transcribing, the judge may, in  
 413 the judge's discretion, authorize trial of the case unreported; and, when it becomes  
 414 necessary for a transcript of the evidence and proceedings to be prepared, it shall be the  
 415 duty of the moving party to prepare the transcript from recollection or otherwise."

416 **PART III**

417 **SECTION 3-1.**

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

421 "9-4-2.

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

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

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

437 **SECTION 3-2.**

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

440 "9-4-5.

441 A proceeding instituted under this chapter shall be filed and served as are other cases in the  
442 superior courts of this state or in the State-wide Business Court and may be tried at any  
443 time designated by the court not earlier than 20 days after the service thereof, unless the  
444 parties consent in writing to an earlier trial. If there is an issue of fact which requires a  
445 submission to a jury, the jury may be drawn, summoned, and sworn either in regular term  
446 or specially for the pending case."

447 **SECTION 3-3.**

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

450 "9-4-10.

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

453 **SECTION 3-4.**

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

456 "23-1-1.

457 All equity jurisdiction shall be vested in the superior courts of the several counties and in  
458 the State-wide Business Court as provided in Code Section 15-5A-3."

459 **SECTION 3-5.**

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

462 "23-4-3.

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

467 **SECTION 3-6.**

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

470 "23-4-33.

471 When it becomes impossible to carry out any last will and testament in whole or in part,  
 472 and in all matters of contract, the judges of the superior courts, and the judge of the  
 473 State-wide Business Court in matters of contract only, shall have power to render any  
 474 decree that may be necessary and legal, provided that all parties in interest shall consent  
 475 thereto in writing and there shall be no issue as to the facts or, if there is such an issue, that  
 476 there shall be a like consent in writing that the judge presiding may hear and determine  
 477 such facts, subject to a review on appeal, as in other cases. In all cases where minors are  
 478 interested, the consent of the guardian at law or the guardian ad litem shall be obtained  
 479 before the decree is rendered."

480 **SECTION 3-7.**

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

483 "23-4-37.

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

489 **PART IV**

490 **SECTION 4-1.**

491 Article 2 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to  
 492 commencement of action and service, is amended by revising subsection (f) of Code Section  
 493 9-11-5, relating to service and filing of pleadings subsequent to the original complaint and  
 494 other papers, as follows:

495 "(f) **Electronic service of pleadings.**

496 (1) A person to be served may consent to being served with pleadings electronically by:

497 (A) Filing a notice of consent to electronic service and including the person to be  
 498 served's ~~e-mail~~ email address or addresses in such pleading; or

499 (B) Including the person to be served's ~~e-mail~~ email address or addresses in or below  
 500 the signature block of the complaint or answer, as applicable to the person to be served.

501 (2) A person ~~to be served~~ who is not an attorney may rescind his or her election to be  
 502 served with pleadings electronically by filing and serving a notice of such rescission.

503 (3) If a person to be served agrees to electronic service of pleadings, such person to be  
504 served bears the responsibility of providing notice of any change in his or her ~~e-mail~~  
505 email address or addresses.

506 (4) When an attorney files a pleading in a case via an electronic filing service provider,  
507 such attorney shall be deemed to have consented to be served electronically with future  
508 pleadings for such case ~~unless he or she files a rescission of consent as set forth in~~  
509 ~~paragraph (2) of this subsection~~ at the primary email address on record with the electronic  
510 filing service provider. An attorney may not rescind his or her election to be served with  
511 pleadings electronically in cases that were initiated using an electronic filing service  
512 provider.

513 (5) If electronic service of a pleading is made upon a person to be served, and such  
514 person certifies to the court under oath that he or she did not receive such pleading, it  
515 shall be presumed that such pleading was not received unless the serving party disputes  
516 the assertion of nonservice, in which case the court shall decide the issue of service of  
517 such pleading."

518 **PART V**  
519 **SECTION 5-1.**

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

522 **SECTION 5-2.**

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