

ADOPTED

Representatives Efstoration of the 104th, Fleming of the 121st, and Oliver of the 82nd offer the following amendment:

1 *Amend the Senate Committee on Judiciary substitute to HB 239 by striking the language*
2 *beginning on line 1 on page 1 through line 523 on page 16 and inserting in lieu thereof the*
3 *following:*

4 To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to
5 establish the Georgia State-wide Business Court pursuant to the Constitution of this state; to
6 provide for terms of court and where such court shall sit; to provide for location of
7 proceedings; to provide for subject matter jurisdiction; to provide for filings, pleadings, and
8 fees; to provide for a judge of the Georgia State-wide Business Court; to establish
9 qualifications; to provide for appointment and approval of such judge; to provide for terms
10 of office; to provide for salary and other compensation; to authorize rule making; to provide
11 for the appointment of a clerk of the Georgia State-wide Business Court; to provide for an
12 interim clerk of the Georgia State-wide Business Court; to provide for law assistants and
13 other employees; to amend Code Section 45-7-4 of the Official Code of Georgia Annotated,
14 relating to general provisions regarding salaries and fees, so as to designate a salary for the
15 judge of the Georgia State-wide Business Court; to amend Title 5 of the Official Code of
16 Georgia Annotated, relating to appeal and error, so as to make conforming changes regarding
17 appeals; to amend Chapter 4 of Title 9 and Title 23 of the Official Code of Georgia
18 Annotated, relating to declaratory judgments and equity, respectively, so as to make
19 conforming changes regarding equity; to amend Article 2 of Chapter 11 of Title 9 of the
20 Official Code of Georgia Annotated, relating to commencement of action and service, so as
21 to revise provisions regarding the electronic service of pleadings; to amend Article 6 of
22 Chapter 13 of Title 24 of the Official Code of Georgia Annotated, relating to depositions to
23 preserve testimony in criminal proceedings, so as to revise the manner by which depositions
24 are paid when taken at the instance of the state; to clarify how depositions shall be taken and
25 filed; to amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as
26 to exclude certain types of filings from the electronic filing requirements of superior and state
27 courts; to provide that fees for electronic filings shall not be charged for pleadings or
28 documents filed by certain entities and persons acting in certain capacities or for the filing
29 of leaves of absence and conflict notices; to provide that certain postjudgment proceedings
30 shall be given a new case number for improved record keeping; to revise a definition; to
31 provide for related matters; to provide for an effective date; to repeal conflicting laws; and
32 for other purposes.

33 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

34 **PART I**
35 **SECTION 1-1.**

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

38 "CHAPTER 5A

39 15-5A-1.

40 There shall be a state-wide business court as provided for in Article VI of the Constitution
41 of this state to be known as the Georgia State-wide Business Court. Nothing in this chapter
42 shall preclude a superior court from creating or continuing an existing business court
43 division for its circuit on or after the effective date of this chapter or preclude a state court
44 from creating or continuing an existing business court division on or after the effective date
45 of this chapter in the manner provided by law.

46 15-5A-2.

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

49 (b) The Georgia State-wide Business Court shall sit at the seat of government in Atlanta
50 or shall sit in Macon-Bibb County and shall conduct proceedings and trials in locations as
51 provided for in this Code section.

52 (c)(1) All cases before the Georgia State-wide Business Court may have pretrial
53 proceedings conducted at the seat of government, in Atlanta, in Macon-Bibb County, or,
54 in the sole discretion of the judge of the Georgia State-wide Business Court to whom the
55 case is assigned, conducted via video, telephone, or other efficient technological means
56 as may be deemed necessary or useful to conserve the resources of the parties or the
57 court.

58 (2) At the request of any party to a case, the judge of the Georgia State-wide Business
59 Court to whom the case is assigned may, in his or her sole discretion, conduct any pretrial
60 proceeding in the county in which the trial of such case shall be conducted pursuant to
61 the Constitution of this state.

62 (d) The judge of the Georgia State-wide Business Court to whom a case is assigned shall
63 preside over a bench trial unless any party requests a jury trial. If such request is made, the
64 judge of the Georgia State-wide Business Court to whom the case is assigned shall preside

65 over such jury trial. Any trial of a case before the Georgia State-wide Business Court shall
 66 take place in the county where venue is proper pursuant to subsection (e) of this Code
 67 section.

68 (e) Proper venue in the Georgia State-wide Business Court shall be as provided:

69 (1) In Code Section 9-10-93 or 14-2-510 or as otherwise prescribed by law or the
 70 Constitution of this state when initiating a civil action that has not already been filed in
 71 superior court or state court; provided, however, that, if more than one venue is proper,
 72 then the party initiating the civil action in the Georgia State-wide Business Court shall
 73 select among the proper venues at the time of filing in the Georgia State-wide Business
 74 Court;

75 (2) In the pleadings, if proper, that initiated the civil action in superior court or state
 76 court when petitioning the Georgia State-wide Business Court for removal or transfer;
 77 provided, however, that, if venue is improper in the pleading that initiated the civil action
 78 in superior court or state court, then venue shall be set by the Judge of the Georgia
 79 State-wide Business Court; or

80 (3) By the parties when all parties agree on the proper venue.

81 (f) When the judge of the Georgia State-wide Business Court is disqualified from
 82 presiding over a case or proceeding pursuant to the Georgia Code of Judicial Conduct or
 83 Code Section 15-1-8, the case shall be transferred to another judge of the Georgia
 84 State-wide Business Court, if applicable, and if no other judge of the Georgia State-wide
 85 Business Court may preside over such case, then the Supreme Court shall order a sitting
 86 judge of the Court of Appeals, the superior court, or the state court to sit by designation as
 87 a judge of the Georgia State-wide Business Court.

88 15-5A-3.

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

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

94 (A) Notwithstanding the amount in controversy, where equity relief is requested in
 95 claims:

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

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

- 101 (iii) Arising under Article 27 of Chapter 1 of Title 10, the 'Georgia Trade Secrets Act
102 of 1990';
- 103 (iv) Involving securities, including, but not limited to, disputes arising under Chapter
104 5 of Title 10, the 'Georgia Uniform Securities Act of 2008';
- 105 (v) Arising under Title 11, the 'Uniform Commercial Code';
- 106 (vi) Arising under Chapter 2 of Title 14, the 'Georgia Business Corporation Code';
- 107 (vii) Arising under Chapter 8 of Title 14, the 'Uniform Partnership Act';
- 108 (viii) Arising under Chapter 9 of Title 14, the 'Georgia Revised Uniform Limited
109 Partnership Act';
- 110 (ix) Arising under Chapter 9A of Title 14, the 'Uniform Limited Partnership Act';
- 111 (x) Arising under Chapter 11 of Title 14, the 'Georgia Limited Liability Company
112 Act';
- 113 (xi) That relate to the internal affairs of businesses, including, but not limited to,
114 rights or obligations between or among business participants regarding the liability
115 or indemnity of business participants, officers, directors, managers, trustees, or
116 partners;
- 117 (xii) Arising under federal law over which courts of this state have concurrent
118 jurisdiction;
- 119 (xiii) Where the complaint includes a professional malpractice claim arising out of
120 a business dispute;
- 121 (xiv) Involving tort claims between or among two or more business entities or
122 individuals as to their business or investment activities relating to contracts,
123 transactions, or relationships between or among such entities or individuals;
- 124 (xv) For breach of contract, fraud, or misrepresentation between businesses arising
125 out of business transactions or relationships;
- 126 (xvi) Arising from e-commerce agreements; technology licensing agreements,
127 including, but not limited to, software and biotechnology license agreements; or any
128 other agreement involving the licensing of any intellectual property right, including,
129 but not limited to, an agreement relating to patent rights; and
- 130 (xvii) Involving commercial real property; and
- 131 (B) Where damages are requested the amount in controversy shall be at least:
- 132 (i) One million dollars for claims under subparagraph (A) of this paragraph involving
133 commercial real property; or
- 134 (ii) Five hundred thousand dollars for claims under subparagraph (A) of this
135 paragraph not involving commercial real property;

136 (2) Have supplemental jurisdiction over all pending claims that are so related to the
 137 claims in cases provided for under paragraph (1) of this subsection that such pending
 138 claims form part of the same case or controversy;

139 (3) Punish contempt by fines not exceeding \$1,000.00, by imprisonment not exceeding
 140 20 days, or both; and

141 (4) Exercise such other powers, not contrary to the Constitution, as are or may be given
 142 to such a court by law.

143 (b) The Georgia State-wide Business Court shall not have authority to exercise jurisdiction
 144 over claims arising under federal or state law, as applicable, involving:

145 (1) Physical injury inflicted upon the body of a person or death;

146 (2) Mental or emotional injury inflicted upon a person;

147 (3) Physical contact of an insulting or provoking nature with the body of a person;

148 (4) A threat of physical violence toward another person;

149 (5) Matters arising under Title 19;

150 (6) Residential landlord and tenant disputes;

151 (7) Foreclosures;

152 (8) Individual consumer claims involving a retail customer of goods or services who uses
 153 or intends to use such goods or services primarily for personal, family, or household
 154 purposes; provided, however, that this paragraph shall not be construed to preclude the
 155 court from exercising jurisdiction over mass actions or class actions involving such
 156 individual consumer claims; or

157 (9) Collections in matters involving a family owned farm entity as defined in Code
 158 Section 48-5-41.1 or an individual farmer.

159 15-5A-4.

160 (a) Except as provided in subsection (b) of this Code section, all claims provided for under
 161 Code Section 15-5A-3 may only come before the Georgia State-wide Business Court by:

162 (1) Any party filing a pleading with the Georgia State-wide Business Court to initiate a
 163 civil action that is not already pending in superior court or state court unless any
 164 defendant within 30 days after receipt by all defendants, through service of process, of
 165 a copy of the initial pleading setting forth the claim for relief upon which such action is
 166 based objects and petitions the Georgia State-wide Business Court to transfer such action
 167 to the superior court or state court with which venue is otherwise proper. The judge of
 168 the Georgia State-wide Business Court shall then compel transfer of the case to such
 169 superior court or state court, unless the action involves a contract claim or dispute where
 170 all parties are business entities and such contract provides that such dispute shall come
 171 before the Georgia State-wide Business Court;

172 (2) All parties to a civil action already filed in superior court or state court agreeing to
173 remove the action to the Georgia State-wide Business Court and then filing such
174 agreement with the Georgia State-wide Business Court, provided that the petition for
175 removal is filed within 60 days of such action being filed in superior court or state court;
176 or

177 (3) Any party to a civil action already filed in superior court or state court filing with the
178 Georgia State-wide Business Court a petition to transfer such action to the Georgia
179 State-wide Business Court; provided, however, that:

180 (A) Such a petition to transfer is filed within 60 days after receipt by all defendants,
181 through service of process as provided in Code Section 9-11-4, of a copy of the initial
182 pleading setting forth the claim for relief upon which such action is based. The judge
183 of the Georgia State-wide Business Court, after considering the petition to transfer and
184 all timely responses from the other party or parties in the case, shall thereafter
185 determine whether the case is within the jurisdiction of the Georgia State-wide Business
186 Court, and with a presumption that the civil action remain in the court of filing, the
187 judge may enter an order compelling the transfer of the case to the Georgia State-wide
188 Business Court unless a party objects within 30 days of the filing of the petition to
189 transfer; or

190 (B) Such a petition to transfer is filed within 60 days after receipt by all defendants,
191 through service of process as provided in Code Section 9-11-5 or as otherwise provided
192 by law, of a copy of an amended pleading, motion, order, or other document from
193 which the party petitioning to transfer may first ascertain that the case is transferable.
194 The judge of the Georgia State-wide Business Court, after considering the petition to
195 transfer and all timely responses from the other party or parties in the case, shall
196 thereafter determine whether the case is within the jurisdiction of the Georgia
197 State-wide Business Court, and with a presumption that the civil action remain in the
198 court of filing, the judge may enter an order compelling transfer of the case to the
199 Georgia State-wide Business Court unless a party objects within 30 days of the filing
200 of the petition to transfer.

201 (b) Notwithstanding subsection (a) of this Code section, the Georgia State-wide Business
202 Court may transfer to the appropriate superior court or state court any and all claims filed
203 in the Georgia State-wide Business Court and may reject acceptance of any and all
204 petitions to transfer or petitions for removal to the Georgia State-wide Business Court, even
205 if such claims are within the jurisdiction of the Georgia State-wide Business Court.

206 (c) Notwithstanding any other law, when the superior court or state court where a claim
207 is pending receives a certified copy of an order issued by the Georgia State-wide Business
208 Court transferring or removing such civil action to the Georgia State-wide Business Court

209 pursuant to paragraph (2) or (3) of subsection (a) of this Code section, such superior court
210 or state court shall certify the transfer or removal from the superior court or state court to
211 the Georgia State-wide Business Court.

212 (d)(1) A pleading, petition, or other document as provided in subsection (a) of this Code
213 section that is filed with the Georgia State-wide Business Court shall be deemed filed as
214 of the time of its receipt by the filing service provider of the Georgia State-wide Business
215 Court.

216 (2) Where such pleading, petition, or other document is filed within an applicable statute
217 of limitations, such filing shall toll that applicable statute of limitations and such statute
218 of limitations shall remain tolled until the date that the Georgia State-wide Business
219 Court accepts or rejects acceptance of the pleading, petition, or other document as
220 provided in subsection (a) of this Code section.

221 15-5A-5.

222 (a) The fee for filing a case with, or having a case transferred or removed to, the Georgia
223 State-wide Business Court shall be \$3,000.00, to be paid by:

224 (1) The party or parties filing the action in, or seeking transfer to, the Georgia State-wide
225 Business Court under paragraph (1) or (3) of subsection (a) of Code Section 15-5A-4; or

226 (2) An equal allocation across all parties to an agreement seeking removal of the case to
227 the Georgia State-wide Business Court under paragraph (2) of subsection (a) of Code
228 Section 15-5A-4.

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

232 15-5A-6.

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

234 (b) The court shall commence operations on January 1, 2020, and may commence
235 accepting cases on August 1, 2020.

236 (c) No individual shall be a judge of the Georgia State-wide Business Court unless, at the
237 time of his or her appointment, he or she has:

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

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

240 (3) At least 15 years of legal experience as an attorney or judge in complex business
241 litigation, which experience shall be presumed by law as being met by virtue of
242 appointment and approval under Code Section 15-5A-7.

243 15-5A-7.

244 (a) The judge of the Georgia State-wide Business Court shall be appointed by the
245 Governor, subject to approval by a majority vote of the Senate Judiciary Committee and
246 a majority vote of the House Committee on Judiciary. The Senate Judiciary Committee
247 and the House Committee on Judiciary shall be authorized to meet jointly or separately,
248 while in or out of a legislative session, as called in the discretion of each such chairperson,
249 with notice provided by the chairpersons to such committee members, to consider the
250 approval of such appointment.

251 (b)(1) The initial judge of the Georgia State-wide Business Court shall be appointed by
252 July 1, 2019, and approved by December 31, 2019, or within three months of the
253 Governor's appointment, whichever is later, and the judge shall serve an initial term
254 beginning on August 1, 2020.

255 (2) Beginning on January 1, 2020, such initial judge may perform the administrative
256 duties required for establishing the Georgia State-wide Business Court and, if so, shall
257 receive compensation as a judge of the Georgia State-wide Business Court beginning on
258 such date and for such purposes.

259 (3)(A) The judge of the Georgia State-wide Business Court shall serve for a term of
260 five years and may be reappointed for any number of consecutive terms so long as he
261 or she meets the qualifications of appointment at the time of each appointment and shall
262 be reappointed and reapproved in the same manner as provided for in subsection (a) of
263 this Code section.

264 (B) Vacancies in the office of judge of the Georgia State-wide Business Court shall be
265 filled by appointment and approval in the same manner as provided for in subsection
266 (a) of this Code section.

267 (4) The judge of the Georgia State-wide Business Court shall be deemed to serve the
268 geographical area of this state.

269 15-5A-8.

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

273 'I swear that I will administer justice without respect to person and do equal rights to the
274 poor and the rich and that I will faithfully and impartially discharge and perform all the
275 duties incumbent on me as judge of the Georgia State-wide Business Court, according to
276 the best of my ability and understanding, and agreeably to the laws and Constitution of
277 this state and the Constitution of the United States. So help me God.'

278 15-5A-9.

279 (a)(1) The annual salary of the judge of the Georgia State-wide Business Court shall be
280 as specified in Code Section 45-7-4. Such salary shall be paid in equal monthly
281 installments.

282 (2) The judge of the Georgia State-wide Business Court shall receive expenses and
283 allowances as provided for in Code Section 45-7-20. If the judge resides 50 miles or
284 more from where the Georgia State-wide Business Court sits, such judge shall also
285 receive a mileage allowance for the use of a personal motor vehicle when devoted to
286 official business as provided for in Code Section 50-19-7, for not more than one round
287 trip per calendar week to and from the judge's residence and where the Georgia
288 State-wide Business Court sits by the most practical route, during each regular and
289 extraordinary session of court. In the event the judge travels by public carrier for any part
290 of a round trip as provided above, such judge shall receive a travel allowance of actual
291 transportation costs for each such part in lieu of the mileage allowance. Transportation
292 costs incurred by the judge for air travel to and from the judge's residence to where the
293 Georgia State-wide Business Court sits shall be reimbursed only to the extent that such
294 costs do not exceed the cost of travel by personal motor vehicle. All allowances provided
295 for in this paragraph shall be paid upon the submission of proper vouchers.

296 (3) If the judge resides 50 miles or more from where the Georgia State-wide Business
297 Court sits, such judge shall also receive the same daily expense allowance as members
298 of the General Assembly receive, as set forth in Code Section 28-1-8, for not more than
299 35 days during each term of court. Such days shall be utilized only when official court
300 business is being conducted. All allowances provided for in this paragraph shall be paid
301 upon the submission of proper vouchers.

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

305 15-5A-10.

306 (a) The judge of the Georgia State-wide Business Court shall have responsibility for
307 creating and, when needed, making revisions to the rules of the Georgia State-wide
308 Business Court and submitting such rules and revisions to the Supreme Court for approval
309 prior to such rules or revisions taking effect; provided, however, that such rules shall
310 conform to Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' where related and
311 applicable.

312 (b) The judge of the Georgia State-wide Business Court is authorized to empanel a
313 commission of up to eight individuals, who may be judges, to assist the judge in the

314 creation or revision of such rules; provided, however, that such individuals shall not receive
315 compensation for being empaneled but may receive a daily expense allowance and travel
316 cost reimbursement in the amount specified in Code Section 45-7-21.

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

321 (d) Such rules shall include:

322 (1) Guidelines and procedures for the filing of pleadings, petitions, motions, and all other
323 documents, electronically or otherwise, with the Georgia State-wide Business Court; and

324 (2) A reasonable time within which the Georgia State-wide Business Court shall issue
325 a decision on a matter before the court.

326 15-5A-11.

327 (a) There shall be a clerk of the Georgia State-wide Business Court. Such clerk shall be
328 appointed by the Governor, subject to approval by a majority vote of the Senate Judiciary
329 Committee and a majority vote of the House Committee on Judiciary. The Senate
330 Judiciary Committee and the House Committee on Judiciary shall be authorized to meet
331 jointly or separately, while in or out of a legislative session, as called in the discretion of
332 each such chairperson, with notice provided by the chairpersons to such committee
333 members, to consider the approval of such appointment.

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

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

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

343 (c) The annual compensation of the clerk of the Georgia State-wide Business Court shall
344 be equal to the annual compensation provided for the clerk of the Court of Appeals."

345 15-5A-12.

346 (a) The offices of the judge and clerk of the Georgia State-wide Business Court shall sit
347 at the seat of government in Atlanta or shall sit in Macon-Bibb County pursuant to
348 subsection (b) of Code Section 15-5A-2.

349 (b) The judge of the Georgia State-wide Business Court, in coordination with the clerk of
350 the Georgia State-wide Business Court, shall be responsible for designating an electronic
351 filing system.

352 15-5A-13.

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

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

361 15-5A-14.

362 The judge of the Georgia State-wide Business Court may employ and fix the salaries of
363 stenographers, clerical assistants, and such other employees as may be deemed necessary
364 by the court; and the salaries therefor shall be paid by the clerk from the amount
365 appropriated by the General Assembly for such purposes.

366 15-5A-15.

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

372 15-5A-16.

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

377 **SECTION 1-2.**

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

381 "(19.1) Judge of the Georgia State-wide Business Court 174,500.00"

382 **PART II**
383 **SECTION 2-1.**

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

387 "5-5-1.

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

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

395 **SECTION 2-2.**

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

398 "5-6-33.

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

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

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

407 **SECTION 2-3.**

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

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

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

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

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

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

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

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

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

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

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

433 (10) All judgments or orders entered pursuant to subsection (c) of Code Section
 434 17-10-6.2;

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

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

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

440 **SECTION 2-4.**

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

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

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

456 **PART III**
 457 **SECTION 3-1.**

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

461 "9-4-2.

462 (a) In cases of actual controversy, the respective superior courts of this state and the
 463 Georgia State-wide Business Court shall have power, upon petition or other appropriate
 464 pleading, to declare rights and other legal relations of any interested party petitioning for
 465 such declaration, whether or not further relief is or could be prayed; and the declaration
 466 shall have the force and effect of a final judgment or decree and be reviewable as such.

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

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

476 **SECTION 3-2.**

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

479 "9-4-5.

480 A proceeding instituted under this chapter shall be filed and served as are other cases in the
 481 superior courts of this state or in the Georgia State-wide Business Court and may be tried
 482 at any time designated by the court not earlier than 20 days after the service thereof, unless

483 the parties consent in writing to an earlier trial. If there is an issue of fact which requires
 484 a submission to a jury, the jury may be drawn, summoned, and sworn either in regular term
 485 or specially for the pending case."

486 **SECTION 3-3.**

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

489 "9-4-10.

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

492 **SECTION 3-4.**

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

495 "23-1-1.

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

498 **SECTION 3-5.**

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

501 "23-4-3.

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

506 **SECTION 3-6.**

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

509 "23-4-33.

510 When it becomes impossible to carry out any last will and testament in whole or in part,
 511 and in all matters of contract, the judges of the superior courts, and the judge of the Georgia
 512 State-wide Business Court in matters of contract only, shall have power to render any
 513 decree that may be necessary and legal, provided that all parties in interest shall consent
 514 thereto in writing and there shall be no issue as to the facts or, if there is such an issue, that
 515 there shall be a like consent in writing that the judge presiding may hear and determine

516 such facts, subject to a review on appeal, as in other cases. In all cases where minors are
 517 interested, the consent of the guardian at law or the guardian ad litem shall be obtained
 518 before the decree is rendered."

519 **SECTION 3-7.**

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

522 "23-4-37.

523 Every decree or order of a superior court or the Georgia State-wide Business Court in
 524 equitable proceedings may be enforced by attachment against the person for contempt.
 525 Decrees for money may be enforced by execution against the property. If a decree is partly
 526 for money and partly for the performance of a duty, the former may be enforced by
 527 execution and the latter by attachment or other process."

528 **PART IV**

529 **SECTION 4-1.**

530 Article 2 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to
 531 commencement of action and service, is amended by revising subsection (f) of Code Section
 532 9-11-5, relating to service and filing of pleadings subsequent to the original complaint and
 533 other papers, as follows:

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

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

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

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

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

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

545 (4) When an attorney files a pleading in a case via an electronic filing service provider,
 546 such attorney shall be deemed to have consented to be served electronically with future
 547 pleadings for such case ~~unless he or she files a rescission of consent as set forth in~~
 548 paragraph (2) of this subsection at the primary email address on record with the electronic
 549 filing service provider. An attorney may not rescind his or her election to be served with

550 pleadings electronically in cases that were initiated using an electronic filing service
 551 provider.

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

557 **PART V**

558 **SECTION 5-1.**

559 Article 6 of Chapter 13 of Title 24 of the Official Code of Georgia Annotated, relating to
 560 depositions to preserve testimony in criminal proceedings, is amended by revising Code
 561 Section 24-13-132, relating to appointment of counsel and payment of costs and expenses,
 562 as follows:

563 "24-13-132.

564 (a) If an accused is financially unable to employ counsel, the court shall appoint counsel
 565 as provided in Chapter 12 of Title 17, unless the accused elects to proceed without counsel.

566 (b) Whenever a deposition is taken at the instance of the state, the cost of any such
 567 deposition shall be paid by the state ~~by the Prosecuting Attorneys' Council of the State of~~
 568 ~~Georgia out of such funds as may be appropriated for the operations of the district attorneys~~
 569 in the same manner as any other motion hearing that may appear on the criminal calendar.

570 (c) Depositions taken at the instance of an accused shall be paid for by the accused;
 571 provided, however, that, whenever a deposition is taken at the instance of an accused who
 572 is eligible for the appointment of counsel as provided in Chapter 12 of Title 17, the court
 573 shall direct that the reasonable expenses for the taking of the deposition and of travel and
 574 subsistence of the accused and the accused's attorney for attendance at the examination, not
 575 to exceed the limits established pursuant to Article 2 of Chapter 7 of Title 45, be paid for
 576 out of the fine and bond forfeiture fund of the county where venue is laid."

577 **SECTION 5-2.**

578 Said article is further amended by revising Code Section 24-13-133, relating to manner of
 579 taking and filing deposition, as follows:

580 "24-13-133.

581 Except as provided in Code Section 24-13-137, a deposition shall be taken and filed in the
 582 manner provided in civil proceedings or any nonjury motion hearing, provided that (1) in
 583 no event shall a deposition be taken of an accused party without his or her consent and (2)

584 the scope of examination and cross-examination shall be such as would be allowed in the
 585 trial itself. On request or waiver by the accused, the court may direct that a deposition be
 586 taken on written interrogatories in the manner provided in civil proceedings. Such request
 587 shall constitute a waiver by the accused of any objection to the taking and use of the
 588 deposition based upon its being so taken. If a judge has been designated to rule on
 589 objections or to preside over the deposition, objections to interrogation of the witness shall
 590 be made to and ruled on by such judge in the same manner as at the trial of a criminal
 591 proceeding."

592 **PART VI**
 593 **SECTION 6-1.**

594 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
 595 paragraphs (2) and (3) of subsection (b) of Code Section 15-6-11, relating to electronic
 596 filings of pleadings and documents in superior court, electronic payments and remittances,
 597 access, and public disclosure, as follows:

598 "(2)(A) Except as provided in subparagraph (B) of this paragraph, a court's electronic
 599 filing service provider may charge a fee which shall be a recoverable court cost and
 600 only include a:

- 601 (i) One-time fee for electronically filing pleadings or documents in a civil action and
 602 the electronic service of pleadings, regardless of how many parties shall be served,
 603 which shall not exceed \$30.00 per filer, per party. Such fee shall be paid at the time
 604 of the first filing on behalf of a party; provided that when filings are submitted via a
 605 public access terminal, upon the first filing not using such terminal, such fee shall be
 606 paid;
- 607 (ii) Supplemental fee of \$5.00 for each filing made in a civil action after a party has
 608 made ten electronic filings in such civil action; and
- 609 (iii) Convenience fee for credit card and bank drafting services, which shall not
 610 exceed 3.5 percent plus a 30¢ payment services fee per transaction.

611 (B) No electronic filing service provider shall charge a fee pursuant to this paragraph
 612 for the filing of:

- 613 (i) Pleadings or documents filed by the Department of Law, the Office of Legislative
 614 Counsel, the Office of the Secretary of State, a district attorney in his or her official
 615 capacity, or a public defender in his or her official capacity;
- 616 (ii) Pleadings or documents filed on behalf of municipal corporations or county
 617 governments; or

618 (iii) Leave of absence or conflict notices filed pursuant to the Uniform Rules for the
 619 Superior Courts.

620 ~~(B)~~(C) With respect to the fee charged pursuant to division (i) of subparagraph (A) of
 621 this paragraph, the clerk of superior court shall retain \$2.00 of the transaction fee and
 622 remit it to the governing authority of the county. No other portion of the transaction fee
 623 shall be remitted to any other office or entity of the state or governing authority of a
 624 county or municipality.

625 ~~(C)~~(D) An attorney, or party if he or she is pro se, shall be allowed unlimited access
 626 to view and download any pleading or document electronically filed in connection to
 627 the civil action in which he or she is counsel of record or pro se litigant, and an
 628 electronic service provider shall not be authorized to charge or collect a fee for such
 629 viewing or downloading.

630 (3)~~(A)~~ This subsection shall not apply to filings:

631 ~~(i)~~(A) In connection with a ~~pauper's affidavit, any validation of bonds as otherwise~~
 632 ~~provided for by law, pleadings;~~

633 (i) A pauper's affidavit;

634 (ii) Any validation of bonds as otherwise provided for by law;

635 (iii) Pleadings or documents filed under seal or presented to a court in camera or ex
 636 parte, ~~or pleadings; or~~

637 (iv) Pleadings or documents to which access is otherwise restricted by law or court
 638 order;

639 ~~(ii)~~(B) Made physically at the courthouse by an attorney or his or her designee or an
 640 individual who is not an attorney; provided, however, that the clerk shall require such
 641 pleadings or documents made physically at the courthouse by an attorney or his or her
 642 designee be submitted via a public access terminal in the clerk's office. The clerk shall
 643 not charge the fee as set forth in division (2)(A)(i) of this subsection for such filing but
 644 when payment is submitted by credit card or bank draft, the clerk may charge the
 645 convenience fee as set forth in division ~~(2)(A)(ii)~~ (2)(A)(iii) of this subsection;

646 ~~(iii)~~(C) Made in a court located in an area that has been declared to be in a state of
 647 emergency pursuant to Article 3 of Chapter 3 of Title 38. The Judicial Council of
 648 Georgia shall provide rules for filings in such circumstances; or

649 ~~(iv)~~(D) Made prior to the commencement of mandatory electronic filing for such court,
 650 wherein the filer shall continue to pay fees applicable to the case on the date of the first
 651 filing; provided, however, that a party may elect to make future filings through the
 652 court's electronic filing service provider and pay the applicable fees.

653 ~~(B) This subsection may have an effective date between July 1, 2018, and December~~
 654 ~~31, 2018, when by court rule or standing order, the court commences mandatory~~
 655 ~~electronic filing prior to January 1, 2019."~~

656 **SECTION 6-2.**

657 Said title is further amended by revising subparagraph (a)(4)(A) of Code Section 15-6-61,
 658 relating to duties of superior court clerks generally and computerized record-keeping system,
 659 as follows:

660 "(A) An automated civil case management system which shall contain separate case
 661 number entries for all civil actions filed in the office of the clerk, including complaints,
 662 proceedings, Uniform Interstate Family Support Act actions, domestic relations,
 663 contempt actions, motions and modifications on closed civil actions, any postjudgment
 664 proceeding filed more than 30 days after judgment or dismissal in an action, and all
 665 other actions civil in nature except adoptions;"

666 **SECTION 6-3.**

667 Said title is further amended by revising paragraph (1) of subsection (e) of Code
 668 Section 15-6-77, relating to fees and construction of other fee provisions, as follows:

669 "(1) As used in this subsection, the term 'civil cases' shall include all actions, cases,
 670 proceedings, motions, or filings civil in nature, including but not limited to actions for
 671 divorce, domestic relations actions, modifications on closed civil cases, adoptions,
 672 condemnation actions, and actions for the validation and confirmation of revenue bonds.
 673 Any postjudgment proceeding filed more than 30 days after judgment or dismissal in an
 674 action shall be considered as a new case for the purposes of this Code section and shall
 675 be given a new case number by the clerk of the superior court; provided, however, that
 676 such new case number shall not subject a party to any fee other than provided for in this
 677 Code section."

678 **SECTION 6-4.**

679 Said title is further amended by revising paragraphs (2) and (3) of subsection (b) of Code
 680 Section 15-7-5, relating to electronic filings of pleadings and documents in state court,
 681 electronic payments and remittances, access, and public disclosure, as follows:

682 "(2)(A) Except as provided in subparagraph (B) of this paragraph, a court's electronic
 683 filing service provider may charge a fee which shall be a recoverable court cost and
 684 only include a:

685 (i) One-time fee for electronically filing pleadings or documents in a civil action and
 686 the electronic service of pleadings, regardless of how many parties shall be served,

687 which shall not exceed \$30.00 per filer, per party. Such fee shall be paid at the time
 688 of the first filing on behalf of a party; provided that when filings are submitted via a
 689 public access terminal, upon the first filing not using such terminal, such fee shall be
 690 paid;

691 (ii) Supplemental fee of \$5.00 for each filing made in a civil action after a party has
 692 made ten electronic filings in such civil action; and

693 (iii) Convenience fee for credit card and bank drafting services, which shall not
 694 exceed 3.5 percent plus a 30¢ payment services fee per transaction.

695 (B) No electronic filing service provider shall charge a fee pursuant to this paragraph
 696 for the filing of:

697 (i) Pleadings or documents filed by the Department of Law, the Office of Legislative
 698 Counsel, the Office of the Secretary of State, a solicitor-general in his or her official
 699 capacity, or a public defender in his or her official capacity;

700 (ii) Pleadings or documents filed on behalf of municipal corporations or county
 701 governments; or

702 (iii) Leave of absence or conflict notices filed pursuant to the Uniform Rules for the
 703 State Courts.

704 ~~(B)~~(C) With respect to the fee charged pursuant to division (i) of subparagraph (A) of
 705 this paragraph, the clerk of state court shall retain \$2.00 of the transaction fee and remit
 706 it to the governing authority of the county. No other portion of the transaction fee shall
 707 be remitted to any other office or entity of the state or governing authority of a county
 708 or municipality.

709 ~~(C)~~(D) An attorney, or party if he or she is pro se, shall be allowed unlimited access
 710 to view and download any pleading or document electronically filed in connection to
 711 the civil action in which he or she is counsel of record or pro se litigant, and an
 712 electronic service provider shall not be authorized to charge or collect a fee for such
 713 viewing or downloading.

714 (3)(A) This subsection shall not apply to filings:

715 ~~(i)~~(A) In connection with ~~a pauper's affidavit, pleadings;~~

716 (i) A pauper's affidavit;

717 (ii) Pleadings or documents filed under seal or presented to a court in camera or ex
 718 parte; or pleadings; or

719 (iii) Pleadings or documents to which access is otherwise restricted by law or court
 720 order;

721 ~~(ii)~~(B) Made physically at the courthouse by an attorney or his or her designee or an
 722 individual who is not an attorney; provided, however, that the clerk shall require such
 723 pleadings or documents made physically at the courthouse by an attorney or his or her

724 designee be submitted via a public access terminal in the clerk's office. The clerk shall
 725 not charge the fee as set forth in division (2)(A)(i) of this subsection for such filing but
 726 when payment is submitted by credit card or bank draft, the clerk may charge the
 727 convenience fee as set forth in division ~~(2)(A)(ii)~~ (2)(A)(iii) of this subsection;
 728 ~~(iii)(C)~~ Made in a court located in an area that has been declared to be in a state of
 729 emergency pursuant to Article 3 of Chapter 3 of Title 38. The Judicial Council of
 730 Georgia shall provide rules for filings in such circumstances; or
 731 ~~(iv)(D)~~ Made prior to the commencement of mandatory electronic filing for such court,
 732 wherein the filer shall continue to pay fees applicable to the case on the date of the first
 733 filing; provided, however, that a party may elect to make future filings through the
 734 court's electronic filing service provider and pay the applicable fees.
 735 ~~(B) This subsection may have an effective date between July 1, 2018, and December~~
 736 ~~31, 2018, when by court rule or standing order, the court commences mandatory~~
 737 ~~electronic filing prior to January 1, 2019."~~

738 **PART VII**

739 **SECTION 7-1.**

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

742 **SECTION 7-2.**

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