

The Senate Committee on Judiciary offered the following substitute to HB 371:

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to the civil practice act, so as to require that an affidavit accompany a complaint on any action upon a simple contract in parol where the plaintiff alleges the value of such contract exceeds \$100,000.00; to provide for the dismissal of a complaint for failure to state a claim due to a defective affidavit or no affidavit; to provide for curing defective affidavits; to provide for applicability of renewal provisions; provide for application; to provide for an effective date; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to the civil practice act, is amended by adding a new Code section to read as follows:

"9-11-9.3.

(a) In any action upon a simple contract in parol where the plaintiff alleges the value of such contract exceeds \$100,000.00, the plaintiff shall be required to file with the complaint an affidavit setting forth evidence sufficient to support a plausible claim that such contract

17 exists. For purposes of this Code section, a contract is in parol when it is not wholly in  
18 writing, and a contract that is partly in writing and partly in parol shall be considered one  
19 in parol.

20 (b) If a plaintiff files an affidavit which is allegedly defective, and the defendant to whom  
21 it pertains alleges, with specificity, by motion to dismiss filed before or at the time of the  
22 defendant's initial responsive pleading, that such affidavit is defective, the plaintiff's  
23 complaint shall be subject to dismissal for failure to state a claim, except that the plaintiff  
24 may cure the alleged defect by amendment pursuant to Code Section 9-11-15 within 30  
25 days of service of the motion alleging that the affidavit is defective. The trial court may,  
26 in the exercise of its discretion, extend the time for filing said amendment or response to  
27 the motion, or both, as it shall determine justice requires.

28 (c) If a plaintiff fails to file an affidavit as required by this Code section and the defendant  
29 raises the failure to file such an affidavit by motion to dismiss filed before or at the time  
30 of the defendant's initial responsive pleading, such complaint shall be subject to dismissal  
31 without prejudice for failure to state a claim.

32 (d) This Code section shall apply to contracts entered into after June 30, 2022."

## 33 **SECTION 2.**

34 This Act shall become effective on July 1, 2022.

## 35 **SECTION 3.**

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