

Senate Bill 450

By: Senators Kennedy of the 18th, Strickland of the 17th, Tillery of the 19th, Gooch of the 51st and Jones II of the 22nd

A BILL TO BE ENTITLED

AN ACT

1 To amend Titles 5, 15, 44, and 53 of the Official Code of Georgia Annotated, relating to
2 appeal and error, courts, property, and wills, trusts, and administration of estates,
3 respectively, so as to clarify that neither superior court nor a state court shall have appellate
4 jurisdiction pursuant to Chapter 3 of Title 5 over any nonappealable order of a probate court
5 subject to such chapter; to provide for de novo proceeding with the right to a jury trial of
6 certain probate court final judgments; to require parties' consent for voluntary dismissals of
7 petitions for review under certain circumstances; to provide for retention of jurisdiction by
8 magistrate courts under certain circumstances; to provide for the payment of certain sums
9 into the registry of the trial court in appeals to the Court of Appeals or Supreme Court; to
10 provide for appeals from orders granting temporary letters of administration; to provide for
11 related matters; to provide for an effective date; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

14

15 Chapter 3 of Title 5 of the Official Code of Georgia Annotated, relating to superior and state
16 court appellate practice, is amended by revising subsection (b) of Code Section 5-3-4,
17 relating to jurisdiction, as follows:

18 "(b) The superior courts shall not have appellate jurisdiction pursuant to this chapter over
19 any state court. The state courts shall not have appellate jurisdiction pursuant to this
20 chapter over any superior court. In addition, neither a superior court nor a state court shall
21 have appellate jurisdiction pursuant to this chapter over the following courts or matters:

22 (1) Juvenile courts;

23 (2) The Municipal Court of Columbus;

24 (3) The Civil Court of Macon-Bibb County;

25 (4) The Civil Court of Richmond County;

26 (5) The Georgia State-wide Business Court;

27 (6) A civil case in an Article 6 probate court;

28 (7) An order appointing a temporary administrator or any other order not appealable
29 from a probate court subject to this chapter; and

30 (8) Any other court from which an appeal directly to the Court of Appeals or the
31 Supreme Court is authorized."

SECTION 2.

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33 Said chapter is further amended by adding a new subsection to Code Section 5-3-5, relating
34 to obligations of court, de novo proceedings, and jury trials, to read as follows:

35 "(d) The review of any appealable final judgment of a probate court subject to this chapter
36 shall be a de novo proceeding with the right to a jury trial if demanded."

37 **SECTION 3.**

38 Said chapter is further amended by adding a new subsection to Code Section 5-3-12, relating
39 to requirements for dismissal by reviewing court, to read as follows:

40 "(e) The consent of all parties shall be required for voluntary dismissal of a petition for
41 review if:

42 (1) The appeal is a de novo proceeding and a counterclaim is pending; or

43 (2) A motion for relief under Code Section 9-15-14 is pending."

44 **SECTION 4.**

45 Article 3 of Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to
46 civil proceedings in magistrate courts, is amended by revising paragraph (2) of subsection
47 (b) to Code Section 15-10-41, relating to no jury trials and appeals, as follows:

48 "(2) No appeal shall lie from a default judgment or from a dismissal for want of
49 prosecution after a nonappearance of a plaintiff for trial. Any voluntary dismissal by the
50 plaintiff or by order of the court for want of prosecution shall be without prejudice except
51 that the filing of a second such dismissal shall operate as an adjudication upon the merits.
52 Review, including review of a denial of a postjudgment motion to vacate a judgment,
53 shall be by petition for review to the state court of that county or to the superior court of
54 that county. Upon a reversal of a default judgment or reversal of a refusal to open a
55 default judgment, the magistrate court shall retain jurisdiction to hear the merits of the
56 case de novo."

57 **SECTION 5.**

58 Article 3 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to
59 dispossessory proceedings, is amended by revising subsection (b) of Code Section 44-7-56,
60 relating to appeal, procedure, and possession and payment of rent pending appeal, as follows:

61 "(b) An appeal made pursuant to subsection (a) of this Code section shall proceed as
62 follows:

63 (1) A copy of the petition for review filed in the reviewing superior or state court or the
64 notice of appeal shall be filed with the clerk of the trial court within seven days after the
65 date the judgment was entered in the trial court;

66 (2) The clerk shall immediately notify the trial judge of the petition for review or notice
67 of appeal, and the trial judge may, within 15 days after the same is filed in the trial court,
68 supplement the record with findings of fact and conclusions of law which will be
69 considered as a part of the order of the judge in that case;

70 (3) Except as provided in paragraph (5) of this subsection, if the judgment of the trial
71 court is against the tenant and the tenant appeals this judgment, the tenant shall notify the
72 trial court of his or her appeal and pay into the registry of the reviewing superior or state
73 court all sums found by the trial court to be due for rent in order to remain in possession
74 of the premises; and

75 (4) Except as provided in paragraph (5) of this subsection, the The tenant shall pay all
76 future rent as it becomes due into the registry of the reviewing superior or state court
77 pursuant to paragraph (1) of subsection (a) of Code Section 44-7-54 until the issue has
78 been finally determined on appeal.

79 (5) For appeals to the Court of Appeals or Supreme Court, the tenant shall pay all sums
80 found by the trial court to be due for rent or future rent into the registry of the trial court
81 that rendered the judgment appealed."

82 **SECTION 6.**

83 Article 4 of Chapter 6 of Title 53 of the Official Code of Georgia Annotated, relating to
84 temporary administration, is amended by revising subsection (c) of Code Section 53-6-30,
85 relating to power of court, appointment of administrator, and appeal, as follows:

86 "(c) There shall be no appeal from an order granting temporary letters of administration,
87 either to the superior court under ~~subsection (a) of Code Section 5-3-2~~ Chapter 3 of Title 5
88 or to the Supreme Court or the Court of Appeals under subsection (a) of Code Section
89 15-9-123."

90 **SECTION 7.**

91 This Act shall become effective upon its approval by the Governor or upon its becoming law
92 without such approval.

93 **SECTION 8.**

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