

House Bill 1203

By: Representatives Kelley of the 16<sup>th</sup>, Silcox of the 53<sup>rd</sup>, Jones of the 25<sup>th</sup>, Reeves of the 99<sup>th</sup>,  
Roberts of the 52<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 3 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated,  
2 relating to dispossessory proceedings, so as to authorize landlords to use certain off-duty  
3 sheriffs, constables, or marshals to execute writs of possession in certain circumstances if a  
4 sheriff, constable, or marshal is not able to execute a writ within 30 days of the landlord's  
5 initial request; to provide for sheriffs, constables, and marshals to maintain lists of such  
6 authorized off-duty sheriffs, constables, and marshals in their jurisdictions; to provide for  
7 related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 3 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to  
11 dispossessory proceedings, is amended by revising Code Section 44-7-55, relating to  
12 judgment, writ of possession, landlord's liability for wrongful conduct, distribution of funds  
13 paid into court, and personal property, as follows:

14 "44-7-55.

15 (a) If, on the trial of the case, the judgment is against the tenant, judgment shall be entered  
16 against the tenant for all rents due and for any other claim relating to the dispute. The court

17 shall issue a writ of possession, both of execution for the judgment amount and a writ to  
18 be effective at the expiration of seven days after the date such judgment was entered,  
19 except as otherwise provided in Code Section 44-7-56.

20 (b) If the judgment is for the tenant, he shall be entitled to remain in the premises and the  
21 landlord shall be liable for all foreseeable damages shown to have been caused by his  
22 wrongful conduct. Any funds remaining in the registry of the court shall be distributed to  
23 the parties in accordance with the judgment of the court.

24 (c) Any writ of possession issued pursuant to this article shall authorize the removal of the  
25 tenant or his or her personal property or both from the premises and permit the placement  
26 of such personal property on some portion of the landlord's property or on other property  
27 as may be designated by the landlord and as may be approved by the executing officer;  
28 provided, however, that the landlord shall not be a bailee of such personal property and  
29 shall owe no duty to the tenant regarding such personal property. After execution of the  
30 writ, such property shall be regarded as abandoned.

31 (d) Subject to subsection (a) of this Code section and Code Section 44-7-59, applications  
32 for execution of a writ of possession shall be made within 30 days of issuance of the writ  
33 of possession unless such application for said writ is accompanied by an affidavit showing  
34 good cause for the delay in applying for execution of the writ. The failure to execute a writ  
35 in conformity with this Code section shall require the applicant to apply for a new writ.

36 (e) Nothing in this Code section shall require a sheriff, constable, or marshal to execute  
37 a writ of possession within 30 days from the issuance of any order granting a writ of  
38 possession, or the issuance, application, or request for the execution of the writ of  
39 possession; provided, however, that in the event the sheriff, constable, or marshal is unable  
40 to schedule the execution of the writ within 30 days from the landlord's application or  
41 request for such execution, the landlord shall be entitled to utilize the services of an  
42 off-duty sheriff, constable, or marshal having authority within the jurisdiction wherein the  
43 premises lie to execute such writ at the landlord's sole cost and expense. The sheriff,

44 constable, or marshal shall maintain a list of authorized off-duty sheriffs, constables, and  
45 marshals and make the same available upon request by the landlord. The landlord shall  
46 provide written notice to the sheriff, constable, or marshal of the date and time of the  
47 execution of the writ by such off-duty sheriff, constable, or marshal at least five calendar  
48 days in advance of such execution in order to permit the sheriff, constable, or marshal to  
49 note the same within their own records."

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**SECTION 2.**

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