

House Bill 1203 (COMMITTEE SUBSTITUTE)

By: Representatives Kelley of the 16th, Silcox of the 53rd, Jones of the 25th, Reeves of the 99th,
Roberts of the 52nd, 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, sheriff deputies, constables, marshals, or other individuals certified by the Georgia
4 Peace Officer Standards and Training Council to execute writs of possession in certain
5 circumstances if a sheriff, sheriff deputy, constable, or marshal is not able to execute a writ
6 within 14 days of the landlord's initial request; to provide for sheriffs, sheriff deputies,
7 constables, and marshals to maintain lists of such authorized off-duty sheriffs, sheriff
8 deputies, constables, marshals, and other individuals certified by the Georgia Peace Officer
9 Standards and Training Council in their jurisdictions; to provide administrative authority; to
10 provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

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

H. B. 1203 (SUB)

17 "44-7-55.

18 (a) If, on the trial of the case, the judgment is against the tenant, judgment shall be entered
19 against the tenant for all rents due and for any other claim relating to the dispute. The court
20 shall issue a writ of possession, both of execution for the judgment amount and a writ to
21 be effective at the expiration of seven days after the date such judgment was entered,
22 except as otherwise provided in Code Section 44-7-56.

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

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

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

39 (e) Nothing in this Code section shall require a sheriff, constable, or marshal to execute
40 a writ of possession within 30 days from the issuance of any order granting a writ of
41 possession, or the issuance, application, or request for the execution of the writ of
42 possession; provided, however, that in the event the sheriff, sheriff deputy, constable, or
43 marshal is unable to execute the writ within 14 days from the landlord's application or

44 request for such execution, the landlord shall be entitled to utilize the services of an
45 off-duty sheriff, sheriff deputy, constable, marshal, or other individual certified by the
46 Georgia Peace Officer Standards and Training Council having authority within the
47 jurisdiction wherein the premises lie to execute such writ at the landlord's sole cost and
48 expense. The sheriff, sheriff deputy, constable, or marshal shall maintain a list of
49 authorized off-duty sheriffs, sheriff deputies, constables, marshals, and other individuals
50 certified by the Georgia Peace Officer Standards and Training Council and make the same
51 available upon request by the landlord. The sheriff, sheriff deputy, constable or marshal
52 shall maintain administrative authority over any persons executing writs under this
53 subsection. The landlord shall provide written notice to the sheriff, sheriff deputy,
54 constable, or marshal of the date and time of the execution of the writ by such off-duty
55 sheriff, sheriff deputy, constable, marshal, or other individuals certified by the Georgia
56 Peace Officer Standards and Training Council at least five calendar days in advance of
57 such execution in order to permit the sheriff, sheriff deputy, constable, or marshal to note
58 the same within their own records."

59 **SECTION 2.**

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