

House Bill 239 (AS PASSED HOUSE AND SENATE)

By: Representatives Efration of the 104th and Fleming of the 121st

A BILL TO BE ENTITLED

AN ACT

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

28 provide for related matters; to provide for an effective date; to repeal conflicting laws; and
 29 for other purposes.

30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

31 **PART I**
 32 **SECTION 1-1.**

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

35 "CHAPTER 5A

36 15-5A-1.

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

43 15-5A-2.

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

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

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

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

59 (d) The judge of the Georgia State-wide Business Court to whom a case is assigned shall
 60 preside over a bench trial unless any party requests a jury trial. If such request is made, the
 61 judge of the Georgia State-wide Business Court to whom the case is assigned shall preside
 62 over such jury trial. Any trial of a case before the Georgia State-wide Business Court shall
 63 take place in the county where venue is proper pursuant to subsection (e) of this Code
 64 section.

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

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

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

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

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

85 15-5A-3.

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

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

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

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

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

131 (ii) Five hundred thousand dollars for claims under subparagraph (A) of this
 132 paragraph not involving commercial real property;

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

136 (3) Punish contempt by fines not exceeding \$1,000.00, by imprisonment not exceeding
 137 20 days, or both; and

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

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

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

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

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

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

146 (5) Matters arising under Title 19;

147 (6) Residential landlord and tenant disputes;

148 (7) Foreclosures;

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

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

156 15-5A-4.

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

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

167 all parties are business entities and such contract provides that such dispute shall come
168 before the Georgia State-wide Business Court;

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

173 or

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

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

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

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

203 (c) Notwithstanding any other law, when the superior court or state court where a claim
 204 is pending receives a certified copy of an order issued by the Georgia State-wide Business
 205 Court transferring or removing such civil action to the Georgia State-wide Business Court
 206 pursuant to paragraph (2) or (3) of subsection (a) of this Code section, such superior court
 207 or state court shall certify the transfer or removal from the superior court or state court to
 208 the Georgia State-wide Business Court.

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

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

218 15-5A-5.

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

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

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

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

229 15-5A-6.

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

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

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

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

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

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

240 15-5A-7.

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

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

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

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

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

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

266 15-5A-8.

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

270 I swear that I will administer justice without respect to person and do equal rights to the
271 poor and the rich and that I will faithfully and impartially discharge and perform all the

272 duties incumbent on me as judge of the Georgia State-wide Business Court, according to
273 the best of my ability and understanding, and agreeably to the laws and Constitution of
274 this state and the Constitution of the United States. So help me God.'

275 15-5A-9.

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

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

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

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

302 15-5A-10.

303 (a) The judge of the Georgia State-wide Business Court shall have responsibility for
304 creating and, when needed, making revisions to the rules of the Georgia State-wide
305 Business Court and submitting such rules and revisions to the Supreme Court for approval
306 prior to such rules or revisions taking effect; provided, however, that such rules shall

307 conform to Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' where related and
 308 applicable.

309 (b) The judge of the Georgia State-wide Business Court is authorized to empanel a
 310 commission of up to eight individuals, who may be judges, to assist the judge in the
 311 creation or revision of such rules; provided, however, that such individuals shall not receive
 312 compensation for being empaneled but may receive a daily expense allowance and travel
 313 cost reimbursement in the amount specified in Code Section 45-7-21.

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

318 (d) Such rules shall include:

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

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

323 15-5A-11.

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

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

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

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

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

342 15-5A-12.

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

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

349 15-5A-13.

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

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

358 15-5A-14.

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

363 15-5A-15.

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

369 15-5A-16.

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

374 **SECTION 1-2.**

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

378 "(19.1) Judge of the Georgia State-wide Business Court 174,500.00"

379 **PART II**
380 **SECTION 2-1.**

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

384 "5-5-1.

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

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

392 **SECTION 2-2.**

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

395 "5-6-33.

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

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

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

404 **SECTION 2-3.**

405 Said title is further amended by revising subsection (a) of Code Section 5-6-34, relating to
406 judgments and rulings deemed directly appealable, procedure for review of judgments,

407 orders, or decisions not subject to direct appeal, scope of review, hearings in criminal cases
 408 involving a capital offense for which death penalty is sought, and appeals involving
 409 nonmonetary judgments in child custody cases, as follows:

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

- 414 (1) All final judgments, that is to say, where the case is no longer pending in the court
 415 below, except as provided in Code Section 5-6-35;
- 416 (2) All judgments involving applications for discharge in bail trover and contempt cases;
- 417 (3) All judgments or orders directing that an accounting be had;
- 418 (4) All judgments or orders granting or refusing applications for receivers or for
 419 interlocutory or final injunctions;
- 420 (5) All judgments or orders granting or refusing applications for attachment against
 421 fraudulent debtors;
- 422 (6) Any ruling on a motion which would be dispositive if granted with respect to a
 423 defense that the action is barred by Code Section 16-11-173;
- 424 (7) All judgments or orders granting or refusing to grant mandamus or any other
 425 extraordinary remedy, except with respect to temporary restraining orders;
- 426 (8) All judgments or orders refusing applications for dissolution of corporations created
 427 by the superior courts;
- 428 (9) All judgments or orders sustaining motions to dismiss a caveat to the probate of a
 429 will;
- 430 (10) All judgments or orders entered pursuant to subsection (c) of Code Section
 431 17-10-6.2;
- 432 (11) All judgments or orders in child custody cases awarding, refusing to change, or
 433 modifying child custody or holding or declining to hold persons in contempt of such child
 434 custody judgment or orders;
- 435 (12) All judgments or orders entered pursuant to Code Section 35-3-37; and
- 436 (13) All judgments or orders entered pursuant to Code Section 9-11-11.1."

437 **SECTION 2-4.**

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

442 "(c) In all civil cases tried in the superior and city courts, in the Georgia State-wide
 443 Business Court, and in any other court, the judgments of which are subject to review by the
 444 Supreme Court or the Court of Appeals, the trial judge thereof may require the parties to
 445 have the proceedings and evidence reported by a court reporter, the costs thereof to be
 446 borne equally between them; and, where an appeal is taken which draws in question the
 447 transcript of the evidence and proceedings, it shall be the duty of the appellant to have the
 448 transcript prepared at the appellant's expense. Where it is determined that the parties, or
 449 either of them, are financially unable to pay the costs of reporting or transcribing, the judge
 450 may, in the judge's discretion, authorize trial of the case unreported; and, when it becomes
 451 necessary for a transcript of the evidence and proceedings to be prepared, it shall be the
 452 duty of the moving party to prepare the transcript from recollection or otherwise."

453 **PART III**

454 **SECTION 3-1.**

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

458 "9-4-2.

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

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

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

473 **SECTION 3-2.**

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

476 "9-4-5.

477 A proceeding instituted under this chapter shall be filed and served as are other cases in the
478 superior courts of this state or in the Georgia State-wide Business Court and may be tried
479 at any time designated by the court not earlier than 20 days after the service thereof, unless
480 the parties consent in writing to an earlier trial. If there is an issue of fact which requires
481 a submission to a jury, the jury may be drawn, summoned, and sworn either in regular term
482 or specially for the pending case."

483 **SECTION 3-3.**

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

486 "9-4-10.

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

489 **SECTION 3-4.**

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

492 "23-1-1.

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

495 **SECTION 3-5.**

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

498 "23-4-3.

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

503 **SECTION 3-6.**

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

506 "23-4-33.

507 When it becomes impossible to carry out any last will and testament in whole or in part,
508 and in all matters of contract, the judges of the superior courts, and the judge of the Georgia

509 State-wide Business Court in matters of contract only, shall have power to render any
 510 decree that may be necessary and legal, provided that all parties in interest shall consent
 511 thereto in writing and there shall be no issue as to the facts or, if there is such an issue, that
 512 there shall be a like consent in writing that the judge presiding may hear and determine
 513 such facts, subject to a review on appeal, as in other cases. In all cases where minors are
 514 interested, the consent of the guardian at law or the guardian ad litem shall be obtained
 515 before the decree is rendered."

516 **SECTION 3-7.**

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

519 "23-4-37.

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

525 **PART IV**

526 **SECTION 4-1.**

527 Article 2 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to
 528 commencement of action and service, is amended by revising subsection (f) of Code Section
 529 9-11-5, relating to service and filing of pleadings subsequent to the original complaint and
 530 other papers, as follows:

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

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

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

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

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

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

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

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

554 **PART V**

555 **SECTION 5-1.**

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

560 "24-13-132.

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

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

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

574 **SECTION 5-2.**

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

577 "24-13-133.

578 Except as provided in Code Section 24-13-137, a deposition shall be taken and filed in the
579 manner provided in civil proceedings or any nonjury motion hearing, provided that (1) in
580 no event shall a deposition be taken of an accused party without his or her consent and (2)
581 the scope of examination and cross-examination shall be such as would be allowed in the
582 trial itself. On request or waiver by the accused, the court may direct that a deposition be
583 taken on written interrogatories in the manner provided in civil proceedings. Such request
584 shall constitute a waiver by the accused of any objection to the taking and use of the
585 deposition based upon its being so taken. If a judge has been designated to rule on
586 objections or to preside over the deposition, objections to interrogation of the witness shall
587 be made to and ruled on by such judge in the same manner as at the trial of a criminal
588 proceeding."

589 **PART VI**590 **SECTION 6-1.**

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

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

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

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

610 (i) Pleadings or documents filed by the Department of Law, the Office of Legislative
 611 Counsel, the Office of the Secretary of State, a district attorney in his or her official
 612 capacity, or a public defender in his or her official capacity;

613 (ii) Pleadings or documents filed on behalf of municipal corporations or county
 614 governments; or

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

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

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

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

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

630 (i) A pauper's affidavit;

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

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

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

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

643 ~~(iii)(C)~~ Made in a court located in an area that has been declared to be in a state of
 644 emergency pursuant to Article 3 of Chapter 3 of Title 38. The Judicial Council of
 645 Georgia shall provide rules for filings in such circumstances; or
 646 ~~(iv)(D)~~ Made prior to the commencement of mandatory electronic filing for such court,
 647 wherein the filer shall continue to pay fees applicable to the case on the date of the first
 648 filing; provided, however, that a party may elect to make future filings through the
 649 court's electronic filing service provider and pay the applicable fees.
 650 ~~(B) This subsection may have an effective date between July 1, 2018, and December~~
 651 ~~31, 2018, when by court rule or standing order, the court commences mandatory~~
 652 ~~electronic filing prior to January 1, 2019."~~

653 **SECTION 6-2.**

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

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

663 **SECTION 6-3.**

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

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

675 **SECTION 6-4.**

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

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

682 (i) One-time fee for electronically filing pleadings or documents in a civil action and
 683 the electronic service of pleadings, regardless of how many parties shall be served,
 684 which shall not exceed \$30.00 per filer, per party. Such fee shall be paid at the time
 685 of the first filing on behalf of a party; provided that when filings are submitted via a
 686 public access terminal, upon the first filing not using such terminal, such fee shall be
 687 paid;

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

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

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

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

697 (ii) Pleadings or documents filed on behalf of municipal corporations or county
 698 governments; or

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

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

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

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

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

713 (i) A pauper's affidavit;

714 (ii) Pleadings or documents filed under seal or presented to a court in camera or ex

715 parte, ~~or pleadings; or~~

716 (iii) Pleadings or documents to which access is otherwise restricted by law or court

717 order;

718 ~~(ii)(B)~~ Made physically at the courthouse by an attorney or his or her designee or an

719 individual who is not an attorney; provided, however, that the clerk shall require such

720 pleadings or documents made physically at the courthouse by an attorney or his or her

721 designee be submitted via a public access terminal in the clerk's office. The clerk shall

722 not charge the fee as set forth in division (2)(A)(i) of this subsection for such filing but

723 when payment is submitted by credit card or bank draft, the clerk may charge the

724 convenience fee as set forth in division ~~(2)(A)(ii)~~ (2)(A)(iii) of this subsection;

725 ~~(iii)(C)~~ Made in a court located in an area that has been declared to be in a state of

726 emergency pursuant to Article 3 of Chapter 3 of Title 38. The Judicial Council of

727 Georgia shall provide rules for filings in such circumstances; or

728 ~~(iv)(D)~~ Made prior to the commencement of mandatory electronic filing for such court,

729 wherein the filer shall continue to pay fees applicable to the case on the date of the first

730 filing; provided, however, that a party may elect to make future filings through the

731 court's electronic filing service provider and pay the applicable fees.

732 ~~(B) This subsection may have an effective date between July 1, 2018, and December~~

733 ~~31, 2018, when by court rule or standing order, the court commences mandatory~~

734 ~~electronic filing prior to January 1, 2019."~~

735 **PART VII**

736 **SECTION 7-1.**

737 This Act shall become effective upon approval of this Act by the Governor or upon its

738 becoming law without such approval.

739 **SECTION 7-2.**

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