

House Bill 1203 (AS PASSED HOUSE AND SENATE)

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, 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 provide for an effective date; to repeal conflicting laws; and  
11 for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Article 3 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to  
15 dispossessory proceedings, is amended by revising Code Section 44-7-55, relating to

16 judgment, writ of possession, landlord's liability for wrongful conduct, distribution of funds  
17 paid into court, and personal property, as follows:

18 "44-7-55.

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

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

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

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

40 (e) Nothing in this Code section shall require a sheriff, constable, or marshal to execute  
41 a writ of possession within 30 days from the issuance of any order granting a writ of  
42 possession, or the issuance, application, or request for the execution of the writ of

43 possession; provided, however, that in the event the sheriff, sheriff deputy, constable, or  
44 marshal is unable to execute the writ within 14 days from the landlord's application or  
45 request for such execution, the landlord shall be entitled to utilize the services of an  
46 off-duty sheriff, sheriff deputy, constable, marshal, or other individual certified by the  
47 Georgia Peace Officer Standards and Training Council having authority within the  
48 jurisdiction wherein the premises lie to execute such writ at the landlord's sole cost and  
49 expense. The sheriff, sheriff deputy, constable, or marshal shall maintain a list of  
50 authorized off-duty sheriffs, sheriff deputies, constables, marshals, and other individuals  
51 certified by the Georgia Peace Officer Standards and Training Council and make the same  
52 available upon request by the landlord. The sheriff, sheriff deputy, constable or marshal  
53 shall maintain administrative authority over any persons executing writs under this  
54 subsection. The landlord shall provide written notice to the sheriff, sheriff deputy,  
55 constable, or marshal of the date and time of the execution of the writ by such off-duty  
56 sheriff, sheriff deputy, constable, marshal, or other individuals certified by the Georgia  
57 Peace Officer Standards and Training Council at least five calendar days in advance of  
58 such execution in order to permit the sheriff, sheriff deputy, constable, or marshal to note  
59 the same within their own records."

60 **SECTION 2.**

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

63 **SECTION 3.**

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