

House Bill 1203 (AS PASSED HOUSE AND SENATE)

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 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.