

House Bill 239 (COMMITTEE SUBSTITUTE)

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 Business Court pursuant to the Constitution of this state; to provide for
3 terms of court and where such court shall sit; to provide for location of proceedings; to
4 provide for subject matter jurisdiction; to provide for filings, pleadings, and fees; to provide
5 for a judge of the Georgia Business Court; to establish qualifications; to provide for
6 appointment and approval of such judge; to provide for terms of office; to provide for salary
7 and other compensation; to authorize rule making; to provide for the appointment of a clerk
8 of the Georgia Business Court; to provide for an interim clerk of the Georgia Business Court;
9 to provide for law assistants and other employees; to amend Code Section 45-7-4 of the
10 Official Code of Georgia Annotated, relating to general provisions regarding salaries and
11 fees, so as to designate a salary for the judge of the Georgia Business Court; to amend Title 5
12 of the Official Code of Georgia Annotated, relating to appeal and error, so as to make
13 conforming changes regarding appeals; to amend Chapter 4 of Title 9 and Title 23 of the
14 Official Code of Georgia Annotated, relating to declaratory judgments and equity,
15 respectively, so as to make conforming changes regarding equity; to provide for related
16 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 style="text-align:center">**PART I**
19 style="text-align:center">**SECTION 1-1.**

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

"CHAPTER 5A

15-5A-1.

There shall be a state-wide business court as provided for in Article VI of the Constitution of this state to be known as the Georgia Business Court. Nothing in this chapter shall preclude a superior court from creating a business court division for its circuit or preclude a state court from creating a business court division, in the manner provided by law.

15-5A-2.

(a) The terms of court for the Georgia Business Court shall be the same as the terms of court for the Supreme Court.

(b) The Georgia Business Court shall sit at the seat of government in Atlanta and shall conduct proceedings and trials in locations as provided for in this Code section.

(c)(1) All cases before the Georgia Business Court may have pretrial proceedings conducted at the seat of government or, in the sole discretion of the judge of the Georgia Business Court to whom the case is assigned, conducted via video, telephone, or other efficient technological means as may be deemed necessary or useful to conserve the resources of the parties or the court.

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

(d) The judge of the Georgia Business Court to whom a case is assigned shall preside over a bench trial unless any party requests a jury trial. If such request is made, the judge of the Georgia Business Court to whom the case is assigned shall preside over such jury trial.

(e) Proper venue in the Georgia Business Court shall be as provided:

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

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

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

57 (f) When the judge of the Georgia Business Court is disqualified to sit in a case or
 58 proceeding pursuant to the Georgia Code of Judicial Conduct or Code Section 15-1-8, such
 59 judge shall order the transfer of the case to another judge of the Georgia Business Court,
 60 if applicable, and if no other judge of the Georgia Business Court may preside over such
 61 case, then the Supreme Court shall order a sitting judge of the Court of Appeals, the
 62 superior court, or the state court to sit by designation as a judge of the Georgia Business
 63 Court. A motion to recuse shall be made in accordance with the rules of the Georgia
 64 Business Court.

65 15-5A-3.

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

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

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

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

74 (ii) Arising under Part 2 of Article 1 of Chapter 9 of Title 9, the 'Georgia
 75 International Commercial Arbitration Code,' for which an application may be made
 76 to a court of this state;

77 (iii) Involving securities, including, but not limited to, disputes arising under Chapter
 78 5 of Title 10, the 'Georgia Uniform Securities Act of 2008';

79 (iv) Arising under Title 11, the 'Uniform Commercial Code';

80 (v) Arising under Chapter 2 of Title 14, the 'Georgia Business Corporation Code';

81 (vi) Arising under Chapter 8 of Title 14, the 'Uniform Partnership Act';

82 (vii) Arising under Chapter 9 of Title 14, the 'Georgia Revised Uniform Limited
 83 Partnership Act';

84 (viii) Arising under Chapter 9A of Title 14, the 'Uniform Limited Partnership Act';

85 (ix) Arising under Chapter 11 of Title 14, the 'Georgia Limited Liability Company
 86 Act';

87 (x) That relate to the internal affairs of businesses, including, but not limited to, rights
 88 or obligations between or among business participants regarding the liability or
 89 indemnity of business participants, officers, directors, managers, trustees, or partners;

90 (xi) Arising under federal law over which courts of this state have concurrent
 91 jurisdiction;

- 92 (xii) Where the complaint includes a professional malpractice claim arising out of a
 93 business dispute;
- 94 (xiii) Involving tort claims between or among two or more business entities or
 95 individuals as to their business or investment activities relating to contracts,
 96 transactions, or relationships between or among such entities or individuals;
- 97 (xiv) For breach of contract, fraud, or misrepresentation between businesses arising
 98 out of business transactions or relationships;
- 99 (xv) Arising from e-commerce agreements; technology licensing agreements,
 100 including, but not limited to, software and biotechnology license agreements; or any
 101 other agreement involving the licensing of any intellectual property right, including,
 102 but not limited to, an agreement relating to patent rights; and
- 103 (xvi) Involving commercial real property; and
- 104 (B) Where damages are the only relief requested the amount in controversy shall be at
 105 least:
- 106 (i) One million dollars for claims under subparagraph (A) of this paragraph involving
 107 commercial real property; or
- 108 (ii) Two hundred and fifty thousand dollars for claims under subparagraph (A) of this
 109 paragraph not involving commercial real property;
- 110 (2) Have supplemental jurisdiction over all pending claims that are so related to the
 111 claims in cases provided for under paragraph (1) of this subsection that such pending
 112 claims form part of the same case or controversy;
- 113 (3) Punish contempt by fines not exceeding \$1,000.00, by imprisonment not exceeding
 114 20 days, or both; and
- 115 (4) Exercise such other powers, not contrary to the Constitution, as are or may be given
 116 to such a court by law.
- 117 (b) The Georgia Business Court shall not have authority to exercise jurisdiction over
 118 claims involving:
- 119 (1) Physical injury inflicted upon the body of a person or death;
 120 (2) Mental or emotional injury inflicted upon a person;
 121 (3) Residential landlord and tenant disputes; or
 122 (4) Foreclosures.

123 15-5A-4.

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

- 126 (1) Any party filing a pleading with the Georgia Business Court to initiate a civil action
 127 that is not already pending in superior court or state court;

128 (2) All parties to a civil action already filed in superior court or state court agreeing to
 129 remove the action to the Georgia Business Court and then filing such agreement with the
 130 Georgia Business Court, provided that the petition for removal is filed within 60 days of
 131 such action being filed in superior court or state court; or

132 (3) Any party to a civil action already filed in superior court or state court filing with the
 133 Georgia Business Court a petition to transfer such action to the Georgia Business Court:

134 (A) Within 60 days after receipt by all defendants, through service of process as
 135 provided in Code Section 9-11-4, of a copy of the initial pleadings setting forth the
 136 claim for relief upon which such action is based and the judge of the Georgia Business
 137 Court, after considering the petition to transfer and all timely responses from the other
 138 party or parties in the case as provided for in the rules of the Georgia Business Court,
 139 finds by written order that the case is within the authority of the Georgia Business Court
 140 pursuant to Code Section 15-5A-3 and upon such finding compels transfer of the case
 141 to the Georgia Business Court; or

142 (B) Within 60 days after receipt by all defendants, through service of process as
 143 provided in Code Section 9-11-4 or otherwise, of a copy of an amended pleading,
 144 motion, order, or other document from which the party petitioning for transfer may first
 145 ascertain that the case is transferable and the judge of the Georgia Business Court, after
 146 considering the petition to transfer and all timely responses from the other party or
 147 parties in the case as provided for in the rules of the Georgia Business Court, finds by
 148 written order that the case is within the authority of the Georgia Business Court
 149 pursuant to Code Section 15-5A-3 and upon such finding compels transfer of the case
 150 to the Georgia Business Court.

151 (b) The Georgia Business Court may transfer to the appropriate superior court or state
 152 court any and all claims filed in the Georgia Business Court and may reject acceptance of
 153 any and all petitions to transfer or petitions for removal to the Georgia Business Court,
 154 even if such claims are within the jurisdiction of the Georgia Business Court.

155 (c) Notwithstanding any other law, when the superior court or state court where a claim
 156 is pending receives a certified copy of an order issued by the Georgia Business Court
 157 transferring or removing such civil action to the Georgia Business Court pursuant to
 158 paragraph (2) or (3) of subsection (a) of this Code section, such superior court or state court
 159 shall certify the transfer or removal from the superior court or state court to the Georgia
 160 Business Court.

161 15-5A-5.

162 (a) The fee for filing a case with, or having a case transferred or removed to, the Georgia
 163 Business Court shall be \$5,000.00, to be paid by:

164 (1) The party or parties filing the action in, or seeking transfer to, the Georgia Business
 165 Court under paragraph (1) or (3) of subsection (a) of Code Section 15-5A-4; or
 166 (2) An equal allocation across all parties to an agreement seeking removal of the case to
 167 the Georgia Business Court under paragraph (2) of subsection (a) of Code Section
 168 15-5A-4.

169 (b) All fees collected by the clerk of the Georgia Business Court pursuant to this Code
 170 section shall be the property of the state and the same shall be paid into the state treasury.

171 15-5A-6.

172 (a) The Georgia Business Court shall consist of one judge and one division.

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

175 (c) No individual shall be a judge of the Georgia Business Court unless, at the time of his
 176 or her appointment, he or she has:

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

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

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

182 15-5A-7.

183 (a) The judge of the Georgia Business Court shall be appointed by the Governor, subject
 184 to approval by a majority vote of the Senate Judiciary Committee and a majority vote of
 185 the House Committee on Judiciary. The Senate Judiciary Committee and the House
 186 Committee on Judiciary shall be authorized to meet jointly or separately, while in or out
 187 of a legislative session, as called in the discretion of each such chairperson, with notice
 188 provided by the chairpersons to such committee members, to consider the approval of such
 189 appointment.

190 (b)(1) The initial judge of the Georgia Business Court shall be appointed by July 1, 2019,
 191 and approved by December 31, 2019, or within three months of the Governor's
 192 appointment, whichever is later, and the judge shall serve an initial term beginning on
 193 August 1, 2020.

194 (2) Beginning on January 1, 2020, such initial judge may perform the administrative
 195 duties required for establishing the Georgia Business Court and, if so, shall receive
 196 compensation as a judge of the Georgia Business Court beginning on such date and for
 197 such purposes.

198 (3)(A) The judge of the Georgia Business Court shall serve for a term of five years and
 199 may be reappointed for any number of consecutive terms so long as he or she meets the
 200 qualifications of appointment at the time of each appointment and shall be reappointed
 201 and reapproved in the same manner as provided for in subsection (a) of this Code
 202 section.

203 (B) Vacancies in the office of judge of the Georgia Business Court shall be filled by
 204 appointment and approval in the same manner as provided for in subsection (a) of this
 205 Code section.

206 (4) The judge of the Georgia Business Court shall be deemed to serve the geographical
 207 area of this state.

208 15-5A-8.

209 Before entering on the duties of his or her office, the judge of the Georgia Business Court
 210 shall take the oath required of all civil officers in addition to the following oath:

211 'I swear that I will administer justice without respect to person and do equal rights to the
 212 poor and the rich and that I will faithfully and impartially discharge and perform all the
 213 duties incumbent on me as judge of the Georgia Business Court, according to the best of
 214 my ability and understanding, and agreeably to the laws and Constitution of this state and
 215 the Constitution of the United States. So help me God.'

216 15-5A-9.

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

219 (2) The judge of the Georgia Business Court shall receive expenses and allowances as
 220 provided for in Code Section 45-7-20. If the judge resides 50 miles or more from the seat
 221 of government in Atlanta, such judge shall also receive a mileage allowance for the use
 222 of a personal motor vehicle when devoted to official business as provided for in Code
 223 Section 50-19-7, for not more than one round trip per calendar week to and from the
 224 judge's residence and the seat of government in Atlanta by the most practical route,
 225 during each regular and extraordinary session of court. In the event the judge travels by
 226 public carrier for any part of a round trip as provided above, such judge shall receive a
 227 travel allowance of actual transportation costs for each such part in lieu of the mileage
 228 allowance. Transportation costs incurred by the judge for air travel to and from the
 229 judge's residence to the seat of government in Atlanta shall be reimbursed only to the
 230 extent that such costs do not exceed the cost of travel by personal motor vehicle. All
 231 allowances provided for in this paragraph shall be paid upon the submission of proper
 232 vouchers.

233 (3) If the judge resides 50 miles or more from the seat of government in Atlanta, such
234 judge shall also receive the same daily expense allowance as members of the General
235 Assembly receive, as set forth in Code Section 28-1-8, for not more than 35 days during
236 each term of court. Such days shall be utilized only when official court business is being
237 conducted. All allowances provided for in this paragraph shall be paid upon the
238 submission of proper vouchers.

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

242 15-5A-10.

243 (a) The judge of the Georgia Business Court shall have responsibility for creating and,
244 when needed, making revisions to the rules of the Georgia Business Court and submitting
245 such rules and revisions to the Supreme Court for approval prior to such rules or revisions
246 taking effect; provided, however, that such rules shall conform to Chapter 11 of Title 9, the
247 'Georgia Civil Practice Act,' where related and applicable.

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

253 (c) Such rules may include a matrix or guidelines for the acceptance of cases by the
254 Georgia Business Court, including, but not limited to, such factors as the amount in
255 controversy, the existence of novel or complex legal issues, and anticipated discovery
256 issues needing the intervention of the Georgia Business Court.

257 (d) Such rules shall include guidelines and procedures for the filing of pleadings, petitions,
258 motions, and all other documents, electronically or otherwise, with the Georgia Business
259 Court.

260 15-5A-11.

261 (a) There shall be a clerk of the Georgia Business Court. Such clerk shall be appointed by
262 the Governor, subject to approval by a majority vote of the Senate Judiciary Committee and
263 a majority vote of the House Committee on Judiciary. The Senate Judiciary Committee
264 and the House Committee on Judiciary shall be authorized to meet jointly or separately,
265 while in or out of a legislative session, as called in the discretion of each such chairperson,
266 with notice provided by the chairpersons to such committee members, to consider the
267 approval of such appointment.

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

270 (2)(A) The clerk of the Georgia Business Court shall serve for a term of five years and
271 may be reappointed for any number of consecutive terms and shall be reappointed and
272 reapproved in the same manner as provided for in subsection (a) of this Code section.

273 (B) Vacancies in the office of clerk of the Georgia Business Court shall be filled by
274 appointment of the Governor in the same manner as provided for in subsection (a) of
275 this Code section.

276 (c) The judge of the Georgia Business Court is authorized to fix the annual compensation
277 of the clerk in the form of a salary and expenses, provided that such compensation shall be
278 within the amount appropriated by the General Assembly for such purposes.

279 15-5A-12.

280 (a) The offices of the judge and clerk of the Georgia Business Court shall sit at the seat of
281 government in Atlanta pursuant to subsection (b) of Code Section 15-5A-2.

282 (b) The judge of the Georgia Business Court, in coordination with the clerk of the Georgia
283 Business Court, shall be responsible for designating an electronic filing system.

284 15-5A-13.

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

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

293 15-5A-14.

294 The judge of the Georgia Business Court may employ and fix the salaries of stenographers,
295 clerical assistants, and such other employees as may be deemed necessary by the court; and
296 the salaries therefor shall be paid by the clerk from the amount appropriated by the General
297 Assembly for such purposes.

298 15-5A-15.

299 The Georgia Business Court shall purchase such books, pamphlets, or other publications,
300 whether in hard copy or digital format, and such other supplies and services as the judge

301 of the Georgia Business Court may deem necessary. The costs thereof shall be paid by the
302 clerk out of the amount appropriated by the General Assembly for such purposes.

303 15-5A-16.

304 The Georgia Business Court shall be a budget unit as defined in Part 1 of Article 4 of
305 Chapter 12 of Title 45, the 'Budget Act': provided, however, that the Georgia Business
306 Court shall be assigned for administrative purposes only to the Court of Appeals."

307 **SECTION 1-2.**

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

311 "(19.1) Judge of the Georgia Business Court 174,500.00"

312 **PART II**

313 **SECTION 2-1.**

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

317 "5-5-1.

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

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

325 **SECTION 2-2.**

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

328 "5-6-33.

329 (a)(1) Either party in any civil case and the defendant in any criminal proceeding in the
330 superior, state, or city courts, or in the Georgia Business Court, may appeal from any
331 sentence, judgment, decision, or decree of the court, or of the judge thereof in any matter
332 heard at chambers.

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

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

337 **SECTION 2-3.**

338 Said title is further amended by revising subsection (a) of Code Section 5-6-34, relating to
 339 judgments and rulings deemed directly appealable, procedure for review of judgments,
 340 orders, or decisions not subject to direct appeal, scope of review, hearings in criminal cases
 341 involving a capital offense for which death penalty is sought, and appeals involving
 342 nonmonetary judgments in child custody cases, as follows:

343 "(a) Appeals may be taken to the Supreme Court and the Court of Appeals from the
 344 following judgments and rulings of the superior courts, the Georgia Business Court, the
 345 constitutional city courts, and such other courts or tribunals from which appeals are
 346 authorized by the Constitution and laws of this state:

347 (1) All final judgments, that is to say, where the case is no longer pending in the court
 348 below, except as provided in Code Section 5-6-35;

349 (2) All judgments involving applications for discharge in bail trover and contempt cases;

350 (3) All judgments or orders directing that an accounting be had;

351 (4) All judgments or orders granting or refusing applications for receivers or for
 352 interlocutory or final injunctions;

353 (5) All judgments or orders granting or refusing applications for attachment against
 354 fraudulent debtors;

355 (6) Any ruling on a motion which would be dispositive if granted with respect to a
 356 defense that the action is barred by Code Section 16-11-173;

357 (7) All judgments or orders granting or refusing to grant mandamus or any other
 358 extraordinary remedy, except with respect to temporary restraining orders;

359 (8) All judgments or orders refusing applications for dissolution of corporations created
 360 by the superior courts;

361 (9) All judgments or orders sustaining motions to dismiss a caveat to the probate of a
 362 will;

363 (10) All judgments or orders entered pursuant to subsection (c) of Code Section
 364 17-10-6.2;

365 (11) All judgments or orders in child custody cases awarding, refusing to change, or
 366 modifying child custody or holding or declining to hold persons in contempt of such child
 367 custody judgment or orders;

368 (12) All judgments or orders entered pursuant to Code Section 35-3-37; and

369 (13) All judgments or orders entered pursuant to Code Section 9-11-11.1."

370 **SECTION 2-4.**

371 Said title is further amended by revising paragraphs (11) and (12) of and adding a new
372 paragraph to subsection (a) of Code Section 5-6-35, relating to cases requiring application
373 for appeal, requirements for application, exhibits, response, issuance of appellate court order
374 regarding appeal, procedure, supersedeas, jurisdiction of appeal, and appeals involving
375 nonmonetary judgments in custody cases, to read as follows:

376 "(11) Appeals from decisions of the state courts reviewing decisions of the magistrate
377 courts by de novo proceedings so long as the subject matter is not otherwise subject to
378 a right of direct appeal; ~~and~~

379 (12) Appeals from orders terminating parental rights; ~~and~~

380 (13) Appeals from orders and decisions of the Georgia Business Court."

381 **SECTION 2-5.**

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

386 "(c) In all civil cases tried in the superior and city courts, in the Georgia Business Court,
387 and in any other court, the judgments of which are subject to review by the Supreme Court
388 or the Court of Appeals, the trial judge thereof may require the parties to have the
389 proceedings and evidence reported by a court reporter, the costs thereof to be borne equally
390 between them; and, where an appeal is taken which draws in question the transcript of the
391 evidence and proceedings, it shall be the duty of the appellant to have the transcript
392 prepared at the appellant's expense. Where it is determined that the parties, or either of
393 them, are financially unable to pay the costs of reporting or transcribing, the judge may, in
394 the judge's discretion, authorize trial of the case unreported; and, when it becomes
395 necessary for a transcript of the evidence and proceedings to be prepared, it shall be the
396 duty of the moving party to prepare the transcript from recollection or otherwise."

397 **PART III**

398 **SECTION 3-1.**

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

402 "9-4-2.

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

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

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

417 **SECTION 3-2.**

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

420 "9-4-5.

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

427 **SECTION 3-3.**

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

430 "9-4-10.

431 Nothing in this chapter is intended to impair the equity jurisdiction of the superior courts
 432 of the state or of the Georgia Business Court."

433 **SECTION 3-4.**

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

436 "23-1-1.

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

439 **SECTION 3-5.**

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

442 "23-4-3.

443 A defendant to any action in the superior court or in the Georgia Business Court, whether
 444 the action is for legal or equitable relief, may claim legal or equitable relief, or both, by
 445 framing proper pleadings for that purpose and sustaining them by sufficient evidence."

446 **SECTION 3-6.**

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

449 "23-4-33.

450 When it becomes impossible to carry out any last will and testament in whole or in part,
 451 and in all matters of contract, the judges of the superior courts, and the judge of the Georgia
 452 Business Court in matters of contract only, shall have power to render any decree that may
 453 be necessary and legal, provided that all parties in interest shall consent thereto in writing
 454 and there shall be no issue as to the facts or, if there is such an issue, that there shall be a
 455 like consent in writing that the judge presiding may hear and determine such facts, subject
 456 to a review on appeal, as in other cases. In all cases where minors are interested, the
 457 consent of the guardian at law or the guardian ad litem shall be obtained before the decree
 458 is rendered."

459 **SECTION 3-7.**

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

462 "23-4-37.

463 Every decree or order of a superior court or the Georgia Business Court in equitable
 464 proceedings may be enforced by attachment against the person for contempt. Decrees for
 465 money may be enforced by execution against the property. If a decree is partly for money
 466 and partly for the performance of a duty, the former may be enforced by execution and the
 467 latter by attachment or other process."

468

PART IV

469

SECTION 4-1.

470 This Act shall become effective upon approval of this Act by the Governor or upon its
471 becoming law without such approval.

472

SECTION 4-2.

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