

The House Committee on Judiciary offers the following substitute to SB 103:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 12 of Title 44 of the Official Code of Georgia Annotated,
2 relating to disposition of unclaimed property, so as to provide for the handling of certain
3 wills and trusts; to provide for definitions; to revise provisions relating to the disposition of
4 unclaimed property; to revise provisions regarding to the filing of claims relating to
5 unclaimed property; to provide for forms; to provide for addendum; to provide for
6 maintenance and retention of records; to provide for administrative expenses of the
7 commissioner; to provide for registration of a claimant's designated representative; to provide
8 for hearings and appeals; to provide for agreements for recovery and purchase; to provide for
9 confidentiality; to provide a downloadable data base for account information; to provide for
10 the denial, suspension, or cancellation of registration; to provide for construction; to provide
11 for related matters; to provide for an effective date; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 103 (SUB)

SECTION 1.

Article 5 of Chapter 12 of Title 44 of the Official Code of Georgia Annotated, relating to disposition of unclaimed property, is amended by revising paragraph (16) and adding new paragraphs to Code Section 44-12-192, relating to definitions, to read as follows:

"(3.1) 'Claimant' means the person on whose behalf a claim is filed.

(3.2) 'Claimant's designated representative' means a person who has successfully registered with the commissioner pursuant to Code Section 44-12-239 to file unclaimed property claim on behalf of a claimant."

"(4.1) 'Department' means the Department of Revenue."

"(14.1) 'Selling claimant' means a claimant who has agreed to sell their interest in unclaimed property in the custody of the department."

"(16) 'Utility' means a person who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas

'Unclaimed Property Agreement Addendum' means an addendum to accompany claims as provided in Code Section 44-12-224.

(17) 'Unclaimed Property Purchase Agreement' means an agreement between a selling claimant and a claimant's designated representative wherein the selling claimant agrees to sell their interest in unclaimed property to the selling claimant's designated representative.

(18) 'Unclaimed Property Recovery Agreement' means an agreement between a claimant and claimant's designated representative for the recovery of unclaimed property in the custody of the department.

(19) 'Utility' means a person that owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas."

40

SECTION 2.

41 Said article is further amended by revising Code Section 44-12-209, relating to rent due on
42 safe-deposit boxes, notice of opening of box and sealing of contents when contents deemed
43 abandoned, and delivery to commissioner, as follows:

44 "44-12-209.

45 (a) If the rental due on a safe-deposit box has not been paid for one year, the lessor shall
46 send a notice by registered mail or statutory overnight delivery to the last known address
47 of the lessee stating that the safe-deposit box will be opened and its contents stored at the
48 expense of the lessee unless payment of the rental is made within 30 days. If the rental is
49 not paid within 30 days from the mailing of the notice, the holder shall provide written
50 notification to the commissioner of the drilling date not less than 30 days prior to this time.
51 The commissioner may designate a representative to be present during the opening of the
52 safe-deposit box. The safe-deposit box shall be opened in the presence of an officer of the
53 lessor. The contents shall be sealed in a package by the officer who shall write on the
54 outside the name of the lessee and the date of the opening. If a will, codicil, trust
55 instrument, or amendment to a trust instrument is among the contents of a safe-deposit box,
56 the officer shall remove such document from the safe-deposit box for separate cataloging
57 and packaging. The officer shall execute a certificate reciting the name of the lessee, the
58 date of the opening of the safe-deposit box, and a list of its contents. A separate certificate
59 shall be executed for any will, codicil, trust instrument, or amendment to a trust instrument,
60 which shall be packaged separately but shall be transmitted along with the package
61 containing the remainder of the contents of the safe-deposit box. The certificate or
62 certificates shall be included in the package or packages and a copy of the certificate shall
63 be sent by registered mail or statutory overnight delivery to the last known address of the
64 lessee. The package or packages shall then be placed in the general vaults of the lessor at
65 a rental not exceeding the rental previously charged for the safe-deposit box.

66 (b) If the contents of the safe-deposit box have not been claimed within two years of the
67 mailing of the certificate, the lessor may send a further notice to the last known address of
68 the lessee stating that, unless the accumulated charges are paid within 30 days, the contents
69 of the safe-deposit box will be delivered to the commissioner as abandoned property under
70 the provisions of Code Section 44-12-214.

71 (c) The lessor shall submit to the commissioner a verified inventory of all of the contents
72 of the safe-deposit box upon delivery of the contents of the safe-deposit box or such part
73 thereof as shall be required by the commissioner under Code Section 44-12-214, but the
74 lessor shall not deduct from any cash of the lessee in the safe-deposit box an amount equal
75 to accumulated charges for rental but shall submit to the commissioner a verified statement
76 of such charges and deductions. If there is no cash, or insufficient cash to pay accumulated
77 charges, in the safe-deposit box, the commissioner shall remit to the lessor the charges or
78 balance due, up to the value of the property in the safe-deposit box delivered to ~~him~~ the
79 commissioner, less any costs or expenses of sale; but, if the charges or balance due exceeds
80 the value of such property, the commissioner shall remit only the value of the property, less
81 costs or expenses of sale. Any accumulated charges for safe-deposit box rental paid by the
82 commissioner to the lessor shall be deducted from the value of the property of the lessee
83 delivered to the commissioner.

84 (d) ~~On and after January 1, 1991,~~ A copy of this Code section shall be printed on every
85 contract for rental of a safe-deposit box.

86 (e) If, after July 1, 2024, a will, codicil, trust instrument, or amendment to a trust
87 instrument is separately packaged and transmitted along with the contents of a safe-deposit
88 box or other safekeeping repository and delivered to the commissioner, the commissioner
89 shall:

90 (1) Retain each original will, codicil, trust instrument, or amendment to a trust
91 instrument; provided, however, that, upon request, the commissioner shall:

- 92 (A) Deliver any will, codicil, trust instrument, or amendment to a trust instrument to
93 the testator or settlor upon the presentation to the commissioner of satisfactory
94 competent evidence of the identity of such testator or settlor;
- 95 (B) Deliver any will or codicil of a deceased testator to the probate court having
96 jurisdiction of such testator's estate in the same circumstances under which a financial
97 institution would deliver such will or codicil to such probate court pursuant to
98 paragraph (1) of subsection (a) of Code Section 7-1-356 upon the presentation to the
99 commissioner of satisfactory competent evidence of the death of the testator;
- 100 (C) Permit the removal of such will, codicil, trust instrument, or amendment to a trust
101 instrument in the same circumstances under which a financial institution would permit
102 the removal thereof pursuant to subsection (d) of Code Section 7-1-356; and
- 103 (D) Deliver any trust instrument or amendment to a trust instrument to the trustee of
104 the trust upon the presentation to the commissioner of satisfactory competent evidence
105 of the death of the settlor, satisfactory competent evidence of the identity of the trustee,
106 and a certification of trust by the trustee made under oath and containing all of the
107 information set forth in paragraph (3) of subsection (b) of Code Section 53-12-280;
- 108 (2) Upon request and upon payment of reasonable charges therefor, provide a true and
109 correct photostatic or certified copy of:
- 110 (A) Any will or codicil to any person upon the presentation to the commissioner of
111 satisfactory competent evidence of the death of the testator and satisfactory competent
112 evidence of the identity of such person showing that, with respect to such will or
113 codicil, such person is an interested person within the meaning of subsection (a) of
114 Code Section 53-5-2 or is a registered claimant's designated representative pursuant to
115 Code Section 44-12-239; and
- 116 (B) Any trust instrument or amendment to a trust instrument to any person upon the
117 presentation to the commissioner of satisfactory competent evidence of the death of the
118 settlor and satisfactory competent evidence of the identity of such person showing that,

119 with respect to such trust or amendment, such person is a trustee, trust director, or
 120 qualified beneficiary, as such terms are defined in Code Sections 53-12-2
 121 and 53-12-500, or is a registered claimant's designated representative pursuant to Code
 122 Section 44-12-239; and
 123 (3) Have no duty to open any safe-deposit box to retrieve any will, codicil, trust,
 124 instrument, or amendment to a trust instrument contained therein."

125 **SECTION 3.**

126 Said article is further amended by revising Code Section 44-12-217, relating to sale or
 127 destruction of property, as follows:

128 "44-12-217.

129 (a) Except as otherwise provided in subsection (b) of this Code section, All abandoned
 130 property, other than money delivered to the commissioner under this article, shall, within
 131 three years after the delivery, be sold by ~~him~~ the commissioner to the highest bidder at
 132 public sale in whatever city in the state affords, in his or her judgment, the most favorable
 133 market for the property involved. The commissioner may decline the highest bid and
 134 reoffer the property for sale if, in the commissioner's sole judgment, he the commissioner
 135 considers the price bid insufficient. ~~He~~ The commissioner need not offer any property for
 136 sale if, in his or her opinion, the probable cost of the sale exceeds the value of the property.

137 (b) Any tangible personal property sold pursuant to this article at a sale conducted at a
 138 specific, physical location held under this Code section shall be preceded by a single
 139 publication of notice thereof at least three weeks in advance of the sale in a newspaper of
 140 general circulation in the county where the property is to be sold. Where such tangible
 141 personal property is sold online or through any other means not associated with a specific,
 142 physical location, such sale shall be preceded by notice published on the department's
 143 website.

144 (b.1)(1) Securities listed on an established stock exchange shall be sold at prices
145 prevailing at the time of sale on the exchange. Other securities may be sold over the
146 counter at prices prevailing at the time of sale or by any other method the commissioner
147 deems advisable. The commissioner may authorize the agent or broker acting on behalf
148 of the commissioner to deduct fees from the proceeds of such sales at a rate agreed upon
149 in advance by the agent or broker and the commissioner.

150 (2) After July 1, 2024, and unless the commissioner deems it to be in the public interest
151 to do otherwise, all securities presumed unclaimed and delivered to the department may
152 be sold upon receipt without further notification obligations. Any person making a claim
153 pursuant to this article shall be entitled to receive either the securities delivered to the
154 department by the holder, if they still remain in the hands of the department, or the
155 proceeds received from sale, but no person shall have any claim under this article against
156 the state, the holder, any transfer agent, any registrar, or any other person acting for or on
157 behalf of a holder for any appreciation in the value of the property occurring after
158 delivery by the holder to the department.

159 (3) Certificates for unclaimed stock or other equity interest of business associations that
160 cannot be canceled and are registered in the department's name or that cannot be readily
161 liquidated and converted into the currency of the United States may be sold for the value
162 of the certificate, if any, in accordance with paragraph (1) of this subsection or may be
163 destroyed in accordance with subsection (d) of this Code section.

164 (c) At any sale conducted by the commissioner pursuant to this article, the purchaser shall
165 receive title to the property purchased free from all claims of the owner or prior holder
166 thereof and of all persons claiming through or under them. The commissioner shall execute
167 all documents necessary to complete the transfer of title.

168 (d) If the commissioner determines after investigation that any property delivered under
169 this article has insubstantial commercial value of less than \$100.00, he or she may destroy
170 or otherwise dispose of the property at any time. No action or proceeding may be

171 maintained against the state or any officer or against any holder for or on account of any
 172 action taken by the commissioner pursuant to this subsection."

173 **SECTION 4.**

174 Said article is further amended by revising Code Section 44-12-218, relating to disposition
 175 of funds received as proceeds of sales and administrative expenses, as follows:

176 "44-12-218.

177 All funds received under this article, including the proceeds from the sale of abandoned
 178 property under Code Section 44-12-217, shall be deposited by the commissioner in the
 179 general fund; provided, however, that the commissioner may deduct and retain moneys
 180 necessary to ~~cover~~ properly administer this article, including, but not limited to, the costs
 181 of personnel and the direct administrative expenses required to identify, locate, secure, and
 182 transmit abandoned property prior to depositing such funds; provided, further, that such
 183 administrative expenses shall not be less than 1 percent of the funds deposited annually.

184 Before making a deposit he or she shall record the name and last known address of each
 185 person appearing from the holders' reports to be entitled to the abandoned property and of
 186 the name and last known address of each insured person or annuitant and, with respect to
 187 each policy or contract listed in the report of an insurance ~~corporation~~ company, its
 188 number, the name of the corporation, and the amount due."

189 **SECTION 5.**

190 Said article is further amended by revising Code Section 44-12-220, relating to claims for
 191 property paid or delivered to commissioner, procedure, and destruction of records after seven
 192 years, as follows:

193 "44-12-220.

194 (a) A person, ~~excluding another state, claiming~~ other than a state, but including a
 195 registered claimant's designated representative, who claims an interest in any property paid

196 or delivered to the commissioner may file with ~~him~~ the commissioner a claim on a form
197 prescribed by ~~him~~ the commissioner and verified by the claimant or the claimant's
198 designated representative. Except as provided in subsection (g) of Code Section
199 44-12-224, failure to use the claim form prescribed by the commissioner shall void the
200 claim. The claim form shall require information the commissioner believes to be
201 reasonably necessary to administer the requirements of this article, including, but not
202 limited to:

203 (1) A legible copy of the claimant's valid driver's license;

204 (2) If the claimant has not been issued a valid driver's license at the time of the original
205 claim form is filed, a legible copy of a photographic identification of the claimant issued
206 by the United States or a state or territory of the United States, a valid passport or national
207 identification card issued by a foreign nation, or other evidence deemed acceptable by the
208 commissioner; and

209 (3) For claims submitted by a registered claimant's designated representative, a duly
210 executed copy of the Unclaimed Property Recovery Agreement or the Unclaimed
211 Property Purchase Agreement, as applicable, and as further described in this Code
212 section.

213 (b) The commissioner shall consider each claim within 90 days after it is filed and give
214 written notice to the claimant and, if the person is utilizing the services of a designated
215 representative, to the claimant's designated representative if the claim is denied in whole
216 or in part. The notice may be given by mailing it to the claimant's designated
217 representative, if any, and to the claimant's last address, if any, as stated in the claim as the
218 address to which notices are to be sent. If no address for notices is stated in the claim, the
219 notice may be mailed to the last address, if any, of the claimant as stated in the claim. No
220 notice of denial need be given if the claim fails to state either the last address to which
221 notices are to be sent or the address of the claimant, or if the claim is deemed void pursuant
222 to subsection (a) of this Code section.

223 (c) If a claim submitted by the claimant is ~~allowed~~ approved, the commissioner shall pay
224 over or deliver to the claimant the property or the amount the commissioner actually
225 received or the net proceeds if it has been sold by the commissioner. ~~The owner is not~~
226 ~~entitled to receive income or other increments accruing after remittance to the~~
227 ~~commissioner.~~

228 (d) ~~The commissioner may, after seven years following the receipt of property, destroy~~
229 ~~such records related to the property as deemed necessary; and after said seven-year period~~
230 ~~any claim relating to such property must be fully substantiated by a claimant, without~~
231 ~~recourse to such records.~~

232 (1) If a claim submitted by a claimant's designated representative is approved, the
233 commissioner shall pay over or deliver to the claimant the balance remaining after
234 deduction and payment of the amount due to the claimant's designated representative by
235 the commissioner; provided, however, that any payments made directly to the claimant's
236 designated representative shall be made only pursuant to the terms of the Unclaimed
237 Property Recovery Agreement or Unclaimed Property Purchase Agreement, including
238 those permitted by subsection (g) of Code Section 44-12-224, that have been submitted
239 with the claim and only if the claimant's designated representative is registered pursuant
240 to Code Section 44-12-239.

241 (2) The commissioner is authorized to make distribution of the property or money in
242 accordance with the Unclaimed Property Recovery Agreement or Unclaimed Property
243 Purchase Agreement. The Unclaimed Property Recovery Agreement or Unclaimed
244 Property Purchase Agreement shall be executed by the claimant or selling claimant and
245 shall be filed with the commissioner along with the claim.

246 (3) Payments of fees and costs to the claimant and the claimant's designated
247 representative authorized under an Unclaimed Property Recovery Agreement for
248 approved claims shall be made by paper check or other means approved by the
249 commissioner on such periodic schedule as the department may define; provided,

250 however, payment for approved claims shall be made to both the claimant and the
251 claimant's representative within 60 days of approval.

252 (4) This Code section shall not apply to actions that are subject to Code Section
253 44-12-211.1 and subsection (c) of Code Section 48-4-5.

254 (e) The contents of safe-deposit boxes shall be delivered directly to the claimant and not
255 to the claimant's designated representative. Any lien owed to the lessor of the safe-deposit
256 box shall be deducted from the value of the contents of the safe-deposit box pursuant to
257 Code Section 44-12-216.

258 (f) The owner of any property delivered to the commissioner pursuant to this article shall
259 not be entitled to receive income or other increments on account of such property that
260 accrues after such property is delivered to the commissioner.

261 (g) When the department receives conflicting claims for the same unclaimed property
262 account or accounts, the property shall be remitted in accordance with the following,
263 notwithstanding the withdrawal of a claim:

264 (1) Preference shall be given to the person submitting the first claim received by the
265 Unclaimed Property Division that is complete or made complete. A claim is complete
266 when entitlement to the unclaimed property has been established;

267 (2) When a claimant's claim and a claimant's designated representative's claim are
268 received by the Unclaimed Property Division on the same day and both claims are
269 complete, the claimant shall be given preference;

270 (3) If a buyer's claim and a claimant's claim or a claimant's designated representative's
271 claim are received by the Unclaimed Property Division on the same day and all claims
272 are complete, the buyer shall be given preference;

273 (4) If more than one buyer's claim received by the Unclaimed Property Division is
274 complete or made complete on the same day, the buyer that demonstrates that its
275 agreement complies with this article and was executed first shall receive preference;

276 (5) If more than one claim by a claimant's designated representative received by the
 277 Unclaimed Property Division is complete or made complete the same day, the claimant's
 278 designated representative that has agreed to receive the lowest fee shall be given
 279 preference. If two or more such claimant's designated representatives are charging the
 280 same lowest fee, the claimant's designated representative that demonstrates its agreement
 281 complies with this article and was executed first shall be given preference; and
 282 (6) Nothing in this subsection shall extinguish, impair, or affect any private right of
 283 action that one person may have against another for breach of contract, tort, or other
 284 statutory or common-law cause of action; provided, however the department shall not be
 285 liable to any person for acting in conformance with this article and its rules and
 286 regulations.
 287 (h) The commissioner shall maintain an electronic copy of all records related to the
 288 property received by the commissioner. Each certified electronic copy of a document that
 289 is stored pursuant to this subsection shall be deemed an original pursuant to Chapter 10 of
 290 Title 24. Such records shall be retained pursuant to the departmental retention schedules,
 291 which shall provide for a retention period of no less than ten years."

292

SECTION 6.

293 Said article is further amended by revising Code Section 44-12-221, relating to judicial
 294 review of decision of commissioner, as follows:

295 "44-12-221.

296 Any person aggrieved by a decision of the commissioner to approve or deny a claim or
 297 whose claim the commissioner has failed to act upon within 90 days after the filing of the
 298 claim may appeal such decision or lack of decision, either of which shall be deemed the
 299 final agency decision, to the Superior Court of Fulton County. The proceeding shall be
 300 brought within 90 days after the decision of the commissioner or within 180 days of the
 301 filing of the claim if the commissioner fails to act. The appeal shall be tried de novo

302 without a jury. The record on appeal shall be limited to the documents or evidence
303 admitted at any hearing before the commissioner; provided, however, that the court may
304 allow a party to supplement the record for good cause."

305 **SECTION 7.**

306 Said article is further amended by revising Code Section 44-12-222, relating to determination
307 of claim and hearing, as follows:

308 "44-12-222.

309 (a) The commissioner shall consider any claim filed under this article, and in rendering a
310 determination on the merits of any such claim, shall rely on the applicable statutes,
311 regulations, and relevant court decisions ~~and may hold a hearing and receive evidence~~
312 ~~concerning it. If a hearing is held, he shall prepare a finding and a decision in writing on~~
313 ~~each claim filed, stating the substance of any evidence heard by him and the reasons for his~~
314 ~~decision. The decision shall be a public record.~~

315 (b) ~~If the claim is allowed, the commissioner shall make payment forthwith. The claim~~
316 ~~shall be paid without deduction for costs of notice~~ In his or her sole discretion, the
317 commissioner may hold a hearing and receive evidence concerning any unclaimed property
318 claim filed under this article. If a hearing is held, the commissioner, or his or her
319 designated representative, shall consider evidence that would be admissible in contested
320 cases under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' In any
321 proceeding for determination of a claim to property, the burden shall be upon the claimant,
322 or the claimant's agent, including a claimant's designated representative, to establish
323 entitlement to the property by a preponderance of evidence.

324 (c) If a hearing is held, the commissioner, or his or her designated representative, shall
325 prepare a finding and a decision in writing on each claim filed, stating the substance of any
326 evidence heard by him or her and the reasons for his or her decision. The decision shall
327 be a public record and deemed the final agency decision.

328 (d) If the claim is approved, the commissioner shall make payment pursuant to paragraph
329 (2) of subsection (d) of Code Section 44-12-220. Claims shall be paid without deduction
330 for costs of notice."

331 **SECTION 8.**

332 Said article is further amended by revising Code Section 44-12-224, relating to agreement
333 and fees for recovery or assistance in recovery of property reported and delivered to
334 commissioner, as follows:

335 "44-12-224.

336 ~~(a) All agreements to pay compensation to recover or assist in the recovery of property~~
337 ~~reported and delivered to the commissioner under this article shall be unenforceable for 24~~
338 ~~months after the date of payment or the delivery of property to the commissioner.~~

339 ~~(b) The fees charged by any person, firm, or corporation to recover or assist in the~~
340 ~~recovery for and on behalf of a claimant of property reported and delivered to the~~
341 ~~commissioner under this article shall not exceed 10 percent of the value of the property~~
342 ~~recovered. All funds or property located by a person to be compensated by the payment~~
343 ~~of such a fee shall be paid or delivered directly to the owner and may not be paid or~~
344 ~~delivered to the person to receive the fee whether pursuant to a duly executed power of~~
345 ~~attorney or otherwise.~~

346 (a) To protect the interests of owners of unclaimed property, the commissioner shall
347 develop and publish a form entitled 'Unclaimed Property Recovery Agreement,' and a form
348 entitled 'Unclaimed Property Purchase Agreement.'

349 (b) A claimant's designated representative shall use the Unclaimed Property Recovery
350 Agreement or Unclaimed Property Purchase Agreement to file a claim with the
351 commissioner. Except as provided in subsection (g) of this Code section, the failure of a
352 claimant's designated representative to use such agreement or agreements as required by
353 this subsection shall void the claimant's designated representative's claim.

354 (c) The Unclaimed Property Recovery Agreement and the Unclaimed Property Purchase
355 Agreement shall include and disclose the following:

356 (1) The total dollar amount of unclaimed property accounts claimed or sold if the
357 information provided by the holder contains the value of the unclaimed property;

358 (2) If the information provided by the holder contains the value of the unclaimed
359 property, the total percentage of all authorized fees and costs to be paid to the claimant's
360 designated representative or the percentage of the value of the property to be paid as net
361 gain to the selling claimant's designated representative;

362 (3) If the information provided by the holder contains the value of the unclaimed
363 property, the total dollar amount to be deducted and received from the claimant as fees
364 and costs by the claimant's designated representative or the total net dollar amount to be
365 received by the selling claimant's designated representative. If the information provided
366 by the holder does not contain the value of the unclaimed property, then the form shall
367 require the claimant's designated representative to identify the percentage of the net value
368 of the claim that is due to the claimant's designated representative;

369 (4) If the information provided by the holder contains the value of the unclaimed
370 property, the net dollar amount to be received by the claimant or the seller;

371 (5) For each account claimed, the unclaimed property account number;

372 (6) The name, address, email address, phone number, and registration identification
373 number of the claimant's designated representative;

374 (7) The manual signature of the claimant or seller and the date signed, affixed on the
375 agreement by the claimant or seller; provided, however, that a signature that complies
376 with Code Section 10-12-17 shall be sufficient so long as any electronic signature uses
377 an electronic signature product and protocol authorized by the department; and

378 (8) The social security number or taxpayer identification number of the claimant or
379 seller, if a number has been issued to the claimant or seller.

380 (d)(1) The total fees and costs under an Unclaimed Property Recovery Agreement may
381 not exceed 30 percent of the claimed amount or the unclaimed property's value,
382 whichever is lower. If the total fees and costs exceed 30 percent, the fees and costs shall
383 be reduced to 30 percent and the net balance shall be remitted directly by the
384 commissioner to the claimant. Such 30 percent compensation limit shall not apply:

385 (A) If a judicial order, judgment, or decree to document entitlement is required; or

386 (B) To Unclaimed Property Purchase Agreements.

387 (2) For an Unclaimed Property Purchase Agreement form, proof that the purchaser has
388 made payment shall be filed with the department along with the claim. If proof of
389 payment is not provided, the claim is void. Proof may be demonstrated by a receipt
390 signed by claimant and claimant's designated representative, if any; a copy of check
391 issued; bank wire confirmation; or other information provided by the department's rules
392 and regulation.

393 (e) A claimant may revoke an Unclaimed Property Recovery Agreement or an Unclaimed
394 Property Purchase Agreement for any reason permitted by law. If a claimant's designated
395 representative files a claim with the department, a claimant's designated representative shall
396 inform the department in the event the claimant successfully and effectively revokes the
397 relevant Unclaimed Property Recovery Agreement or Unclaimed Property Purchase
398 Agreement.

399 (f) The Unclaimed Property Recovery Agreement and the Unclaimed Property Purchase
400 Agreement may not create an assignment of any portion of unclaimed property held by the
401 department other than that property described in a duly executed Unclaimed Property
402 Purchase Agreement.

403 (g)(1) When a claimant's designated representative submits a claim for which the total
404 known value of the claimant's unclaimed property in the custody of the department
405 exceeds \$2,000.00, the claimant's designated representative may add terms and conditions
406 to the Unclaimed Property Recovery Agreement or to an Unclaimed Property Purchase

407 Agreement in accordance with the process outlined in this subsection, so long as the
408 additional terms and conditions are:

409 (A) Not inconsistent with the requirements of this Code section;

410 (B) Printed in at least ten-point font; and

411 (C) Located after or below the terms of the Unclaimed Property Recovery Agreement
412 or the Unclaimed Property Purchase Agreement as published by the commissioner
413 pursuant to this Code section.

414 (2) The commissioner shall develop and publish an Unclaimed Property Agreement
415 Addendum form for use by a claimant and claimant's designated representative to indicate
416 whether they dispute or agree with the terms and conditions added to the Unclaimed
417 Property Recovery Agreement or the Unclaimed Property Purchase Agreement pursuant
418 to this subsection. The Unclaimed Property Agreement Addendum form shall be
419 published online and shall be downloadable.

420 (3) For claims made under this subsection, the Unclaimed Property Agreement
421 Addendum shall be completed, signed by both the claimant and the claimant's designated
422 representative, and filed with the Unclaimed Property Recovery Agreement or the
423 Unclaimed Property Purchase Agreement. Any terms and conditions added to an
424 Unclaimed Property Recovery Agreement or the Unclaimed Property Purchase
425 Agreement shall be void in the absence of a duly executed Unclaimed Property
426 Agreement Addendum. A signature that complies with Code Section 10-12-17 shall be
427 sufficient so long as the signatory uses an electronic signature product and protocol
428 authorized by the department.

429 (4) The commissioner may file an interpleader action in the Superior Court of Fulton
430 County if either the claimant or the claimant's designated representative indicate on the
431 Unclaimed Property Agreement Addendum that a dispute exists regarding the terms and
432 conditions added to the Unclaimed Property Recovery Agreement or the Unclaimed
433 Property Purchase Agreement. Appropriate notice of the interpleader action shall be

434 provided to the claimant and the claimant's designated representative. The cost of the
435 interpleader action shall be divided between the claimant and the claimant's designated
436 representative.

437 (5) Except as provided in this article, Unclaimed Property Recovery Agreements and
438 Unclaimed Property Purchase Agreements authorized by this subsection shall be deemed
439 the same as those without additional terms and conditions.

440 (h) The department shall not be administratively, civilly, or criminally liable for any
441 property or funds distributed pursuant to this Code section, provided such distribution is
442 made in good faith."

443 **SECTION 9.**

444 Said article is further amended by revising Code Section 44-12-228, relating to maintenance
445 and retention of records, as follow:

446 "44-12-228.

447 (a) Every financial institution, banking organization, and business association and all other
448 holders required to file a report under Code Section 44-12-214 shall retain all books,
449 records, and documents necessary to establish the accuracy and compliance of such report
450 for ten years after the property becomes reportable, except to the extent that shorter time
451 is provided in accordance with Article 5 of Chapter 18 of Title 50, the 'Georgia Records
452 Act,' or in subsection (b) of this Code section or by rule of the commissioner. As to any
453 property for which it has obtained the last known address of the owner, the holder shall
454 maintain a record of the name and last known address of the owner for the same ten-year
455 period.

456 (b) Any business associations that sell in this state their traveler's checks, money orders,
457 or other similar written instruments, other than third-party bank checks on which the
458 business association is directly liable, or that provides such instruments to others for sale

459 in this state shall maintain a record of those instruments while they remain outstanding,
460 indicating the state and date of issue for three years after the date the property is reportable.

461 (c) Every claimant's designated representative and buyer of unclaimed property shall keep
462 and use in his or her business such books, accounts, and records of the business conducted
463 under this article to enable the department to determine whether such person is in
464 compliance with this article and the rules adopted by the department under this article.
465 Every claimant's designated representative and buyer of unclaimed property shall preserve
466 such books, accounts, and records, including every Unclaimed Property Recovery
467 Agreement or Unclaimed Property Purchase Agreement between the owner and such
468 claimant's representative or buyer, for at least three years after the date of the initial
469 agreement.

470 (d) Upon request by the department, a claimant's designated representative or buyer of
471 unclaimed property shall provide all books, accounts, and records maintained in
472 compliance with subsection (c) of this Code section to the department for examination.

473 (e) Electronic documents shall satisfy the requirements of this Code section.

474 **SECTION 10.**

475 Said article is further amended by revising Code Section 44-12-229, relating to
476 commissioner may compel filing of report and may examine records and failure to maintain
477 records, to read as follows:

478 "44-12-229.

479 (a) The department may make investigations and examinations of claims, reports, and
480 other records as it deems necessary to administer and enforce the provisions of this article.

481 (b) The commissioner may require any person who has not filed a report to file a verified
482 report stating whether or not the person is holding any unclaimed property reportable or
483 deliverable under this article.

484 ~~(b)~~(c) The commissioner may at reasonable times and upon reasonable notice examine the
485 records of any person to determine whether the person has complied with the provisions
486 of this article. The commissioner may conduct the examination even if the person believes
487 it is not in possession of any property reportable or deliverable under this article.

488 ~~(e)~~(d) If a holder fails to maintain the records required by Code Section 44-12-228 and the
489 records of the holder available for the periods subject to this article are insufficient to
490 permit the preparation of a report, the holder shall be required to report and pay such
491 amounts as may reasonably be estimated from any available records."

492 SECTION 11.

493 Said article is further amended by adding new Code sections to read as follows:

494 "44-12-239.

495 (a) In order to file claims as a claimant's designated representative, receive a distribution
496 of fees and costs from the department, or obtain information pertaining to unclaimed
497 property held by the department, a claimant's designated representative shall register with
498 the department by paying a \$1,200.00 registration fee and completing a form published by
499 the department soliciting the information the commissioner deems reasonably necessary
500 to administer the requirements of this article, including, but not limited to:

501 (1) The business address and telephone number of the registrant and, if applicable, the
502 registrant's employer;

503 (2) The tax identification number of the registrant and, if applicable, the registrant's
504 employer;

505 (3) A legible copy of the registrant's current driver's license showing the full name and
506 current address of such person. If a current driver's license is not available, another form
507 of photo identification as prescribed by the commissioner shall be filed with the
508 department;

509 (4) The names of agents or employees, if any, who are designated to submit claims on
510 behalf of the registrant, together with a legible copy of their driver's license showing their
511 full name and address or other form of photo identification as prescribed by the
512 commissioner; and

513 (5) Sufficient information to enable the department to disburse fee payments to the
514 registrant.

515 (b) Registrants shall submit to a background check for all employees designated to submit
516 or process claims on behalf of the registrant.

517 (c) The knowing submission of false information by any registrant pursuant to this article
518 may be punishable by law, including as a false statement prohibited under Code Section
519 16-10-20.

520 (d) A claimant's designated representative is ineligible for registration if, within the
521 immediately preceding 20 years, the designated representative, or such designated
522 representative's officer, owner, or employee designated to act on behalf of the
523 representative, was convicted of a misdemeanor or felony involving dishonesty, deceit, or
524 fraud, or adjudications of responsibility in civil actions pertaining to breach of fiduciary
525 duties.

526 (e) If a material change in the status of a registration occurs, a registrant shall, within 30
527 days, provide the department with the updated documentation and information in writing.
528 Material changes include, but are not limited to a designated agent or employee ceasing to
529 act on behalf of the designating person; changes in any of the contact information provided
530 pursuant to this Code section; any criminal convictions for crimes, whether felonies or
531 misdemeanors, involving dishonesty, deceit, or fraud; or adjudications of responsibility in
532 civil actions pertaining to breach of fiduciary duties. Failure to comply with this subsection
533 shall result in immediate revocation of the registration as a claimant's designated
534 representative.

535 (f) Any solicitation from a claimant's designated representative to an owner or apparent
536 owner of unclaimed property shall include the following notice in all capital letters in at
537 least 12 point type or in a font larger than the font utilized in the solicitation, whichever is
538 larger: 'THIS IS A SOLICITATION. THIS IS NOT A BILL OR OFFICIAL
539 GOVERNMENT DOCUMENT AND HAS NOT BEEN SENT BY THE STATE OF
540 GEORGIA. YOU ARE NOT REQUIRED TO USE THE SERVICES OFFERED IN THIS
541 SOLICITATION.'

542 (g) A claimant's designated representative may not register under or use a business name
543 that might lead a reasonable person to conclude that the representative, firm, or employer
544 is an agent of the United States, or an agency thereof, or a state or an agency or political
545 subdivision of a state.

546 (h) Registration by a claimant's designated representative shall have a four-year term and
547 may be renewed if the claimant's designated representative continues to meet the applicable
548 criteria. Upon renewal, a claimant's designated representative shall pay a renewal fee of
549 \$1,200.00.

550 (i) A duly registered claimant's designated representative is authorized to submit claims
551 and respond to requests for additional information on behalf of a claimant and apparent
552 owner, and to receive information related to accounts claimed directly from the
553 commissioner.

554 (j) Any decision by the commissioner or the commissioner's authorized agent to deny,
555 suspend, revoke, or not renew a claimant's designated representative's registration shall set
556 forth the basis for such action. An applicant for registration or renewal aggrieved by any
557 decision of the commissioner or the commissioner's designated representative is entitled,
558 upon request, to a hearing before the commissioner or the commissioner's designated
559 representative. The request shall set forth with specificity the reasons for the request and
560 the manner of relief sought.

561 (k) Hearings conducted under subsection (j) of this Code section shall be conducted under
562 the terms and conditions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure
563 Act.'

564 44-12-239.1.

565 (a) The commissioner shall provide a registered claimant's designated representative with
566 access to a downloadable or deliverable, searchable and sortable data base for all
567 unclaimed accounts containing the following information, if provided by the holder:

568 (1) Name of the apparent owner. If the property is from an insurance policy, the name
569 of the insured and beneficiary, if applicable;

570 (2) Last known address of the apparent owner. If the apparent owner is the insured under
571 an insurance policy, the address of the beneficiary, if applicable;

572 (3) Owner account relation utilized by the National Association of Unclaimed Property
573 Administrators;

574 (4) Amount of cash, if applicable;

575 (5) For unliquidated securities or mutual funds account, the number of shares, the name
576 of the issuer of the security or mutual funds account, and the Committee on Uniform
577 Securities Identification Procedures number, if available;

578 (6) For safe-deposit box contents, descriptions that are substantially similar to those
579 utilized by the National Association of Unclaimed Property Administrators;

580 (7) Property type descriptions that are substantially similar to those utilized by the
581 National Association of Unclaimed Property Administrators;

582 (8) Date of last activity;

583 (9) Year property was reported to the commissioner; and

584 (10) Holder's name and contact information.

585 (b) A claimant's designated representative who receives unclaimed property information
586 from the commissioner is prohibited from distributing such information except for the

587 purpose of soliciting owners of unclaimed property to offer claim services. The
588 commissioner may refer a suspected violation of this Code section to the Attorney General
589 for prosecution.

590 (c) Notwithstanding Code Section 44-12-225, information identified in subsection (a) of
591 this Code section shall not be deemed confidential to registered claimant's designated
592 representatives.

593 44-12-239.2.

594 (a) The following acts are violations of this article and shall constitute grounds for an
595 administrative enforcement action by the department:

596 (1) Failure to comply with any provision of this article, any rule or order adopted under
597 this article, or any written agreement entered into with the department;

598 (2) Fraud, misrepresentation, deceit, or gross negligence in any matter within the scope
599 of this article;

600 (3) Fraudulent misrepresentation, circumvention, or concealment of any matter required
601 to be stated or furnished to an owner or apparent owner under this article, regardless of
602 reliance by or damage to the owner or apparent owner;

603 (4) Willful imposition of illegal or excessive charges in any unclaimed property
604 transaction;

605 (5) False, deceptive, or misleading solicitation or advertising within the scope of this
606 article;

607 (6) Failure to maintain, preserve, and keep available for examination all books, accounts,
608 or other documents required by this article, by any rule or order adopted under this
609 article, or by any agreement entered into with the department under this article;

610 (7) Refusal to permit inspection of books and records in an investigation or examination
611 by the department or refusal to comply with a subpoena issued by the department under
612 this article;

- 613 (8) Criminal conduct in the course of a person's business;
614 (9) Failure to timely pay any fee or fine imposed or assessed under this article or any rule
615 adopted under this article;
616 (10) Requesting or receiving compensation for notifying a person of his or her unclaimed
617 property or assisting another person in filing a claim for unclaimed property, or entering
618 into, or making a solicitation to enter into, an agreement to file a claim for unclaimed
619 property owned by another, or a contract or agreement to purchase unclaimed property,
620 unless such person is registered with the department under this article; provided,
621 however, that this paragraph shall not apply to a person who has been granted a durable
622 power of attorney to convey and receive all of the real and personal property of the
623 owner, is the court appointed guardian of the owner, has been employed as an attorney
624 or qualified representative to contest the department's denial of a claim, or has been
625 employed as an attorney to probate the estate of the owner or an heir or legatee of the
626 owner;
627 (11) Failure to authorize the release of records in the possession of a third party after
628 being requested to do so by the department regarding a pending examination or
629 investigation; and
630 (12) Receipt or solicitation of consideration to be paid in advance of the approval of a
631 claim under this article.
632 (b) Upon a finding by the department that any person has committed any of the acts set
633 forth in subsection (a) of this Code section, the department may enter an order:
634 (1) Requiring such person to cease and desist or take corrective action as specified by the
635 department;
636 (2) Revoking a registration previously granted under this article during which time the
637 registrant may not reapply for a registration under this article;
638 (3) Placing a registrant on probation for a period and subject to such conditions as the
639 department may specify;

640 (4) Placing permanent restrictions or conditions upon issuance or maintenance of a
641 registration under this article;

642 (5) Imposing an administrative fine not to exceed \$2,000.00 for each such act which
643 shall be retained by the department for purposes of administering this article; or

644 (6) Prohibiting any person from being a director, officer, agent, employee, or ultimate
645 equitable owner of a 10 percent or greater interest in an employer of a claimant's
646 designated representative.

647 (c) A claimant's designated representative is subject to the disciplinary actions specified
648 in subsection (b) of this Code section for violations of subsection (a) of this Code section
649 by an agent or employee of the registrant's employer if the registrant knew or should have
650 known that such agent or employee was violating any provision of this article.

651 (d) A person aggrieved by any enforcement action imposed by the department is entitled,
652 upon request, to a hearing before the commissioner or the commissioner's designated
653 representative which shall be conducted in accordance with Chapter 13 of Title 50, the
654 'Georgia Administrative Procedure Act.' Such hearing request shall set forth with
655 specificity the reasons for the request and the manner of relief sought.

656 (e) The department may seek any appropriate civil legal remedy available to it by filing
657 a civil action in a court of competent jurisdiction against any person who has, directly or
658 through a claimant's representative, wrongfully submitted a claim as the ultimate owner of
659 property and improperly received funds from the department in violation of this article.

660 (f) In addition to any other powers conferred upon it to enforce and administer the
661 provisions of this article, the commissioner may refer to the Attorney General for further
662 investigation any conduct the commissioner believes, in the commissioner's sole discretion,
663 may warrant civil or criminal enforcement."

664 **SECTION 12.**

665 This Act shall become effective on July 1, 2024.

666

SECTION 13.

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