

Senate Bill 103

By: Senators Goodman of the 8th, Burns of the 23rd, Anderson of the 24th, Merritt of the 9th, Anderson of the 43rd and others

**AS PASSED SENATE**

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; to provide for definitions; to provide for administrative expenses of the commissioner;  
4 to provide for a claimant's designated representative with certain requirements; to provide  
5 for appeals; to provide for agreements for recovery; to provide for confidentiality; to provide  
6 a searchable data base for account information; to provide for exemptions; to provide for the  
7 denial, suspension, or cancellation of a license or permit; to provide for construction; to  
8 provide for related matters; to provide for an effective date; to repeal conflicting laws; and  
9 for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 5 of Chapter 12 of Title 44 of the Official Code of Georgia Annotated, relating to  
13 disposition of unclaimed property, is amended by adding new paragraphs to Code Section  
14 44-12-192, relating to definitions, to read as follows:

15 "(3.1) 'Claimant' means the person on whose behalf a claim is filed.

16 (3.2) 'Claimant's designated representative' means a person who has successfully  
17 registered with the commissioner pursuant to Code Section 44-12-239."

18 "(4.1) 'Department' means the Department of Revenue."

19 **SECTION 2.**

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

23 "44-12-209.

24 (a) If the rental due on a safe-deposit box has not been paid for one year, the lessor shall  
25 send a notice by registered mail or statutory overnight delivery to the last known address  
26 of the lessee stating that the safe-deposit box will be opened and its contents stored at the  
27 expense of the lessee unless payment of the rental is made within 30 days. If the rental is  
28 not paid within 30 days from the mailing of the notice, the holder shall provide written  
29 notification to the commissioner of the drilling date not less than 30 days prior to this time.  
30 The commissioner may designate a representative to be present during the opening of the  
31 safe-deposit box. The safe-deposit box shall be opened in the presence of an officer of the  
32 lessor. The contents shall be sealed in a package by the officer who shall write on the  
33 outside the name of the lessee and the date of the opening. The officer shall execute a  
34 certificate reciting the name of the lessee, the date of the opening of the safe-deposit box,  
35 and a list of its contents. The certificate shall be included in the package and a copy of the  
36 certificate shall be sent by registered mail or statutory overnight delivery to the last known  
37 address of the lessee. The package shall then be placed in the general vaults of the lessor  
38 at a rental not exceeding the rental previously charged for the safe-deposit box.

39 (b) If the contents of the safe-deposit box have not been claimed within two years of the  
40 mailing of the certificate, the lessor may send a further notice to the last known address of  
41 the lessee stating that, unless the accumulated charges are paid within 30 days, the contents

42 of the safe-deposit box will be delivered to the commissioner as abandoned property under  
43 the provisions of Code Section 44-12-214.

44 (c) The lessor shall submit to the commissioner a verified inventory of all of the contents  
45 of the safe-deposit box upon delivery of the contents of the safe-deposit box or such part  
46 thereof as shall be required by the commissioner under Code Section 44-12-214, but the  
47 lessor shall not deduct from any cash of the lessee in the safe-deposit box an amount equal  
48 to accumulated charges for rental but shall submit to the commissioner a verified statement  
49 of such charges and deductions. If there is no cash, or insufficient cash to pay accumulated  
50 charges, in the safe-deposit box, the commissioner shall remit to the lessor the charges or  
51 balance due, up to the value of the property in the safe-deposit box delivered to ~~him~~ the  
52 commissioner, less any costs or expenses of sale; but, if the charges or balance due exceeds  
53 the value of such property, the commissioner shall remit only the value of the property, less  
54 costs or expenses of sale. Any accumulated charges for safe-deposit box rental paid by the  
55 commissioner to the lessor shall be deducted from the value of the property of the lessee  
56 delivered to the commissioner.

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

59 (e) If a will, codicil, trust instrument, or amendment to a trust instrument is included  
60 among the contents of a safe-deposit box or other safekeeping repository delivered to the  
61 commissioner, the commissioner shall:

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

64 (A) Deliver any will, codicil, trust instrument, or amendment to a trust instrument to  
65 the testator or settlor upon the presentation to the commissioner of satisfactory  
66 competent evidence of the identity of such testator or settlor;

67 (B) Deliver any will or codicil of a deceased testator to the probate court having  
68 jurisdiction of such testator's estate in the same circumstances under which a financial

69 institution would deliver such will or codicil to such probate court pursuant to  
70 paragraph (1) of subsection (a) of Code Section 7-1-356 upon the presentation to the  
71 commissioner of satisfactory competent evidence of the death of the testator;

72 (C) Permit the removal of such will, codicil, trust instrument, or amendment to a trust  
73 instrument in the same circumstances under which a financial institution would permit  
74 the removal thereof pursuant to subsection (d) of Code Section 7-1-356; and

75 (D) Deliver any trust instrument or amendment to a trust instrument to the trustee of  
76 the trust upon the presentation to the commissioner of satisfactory competent evidence  
77 of the death of the settlor, satisfactory competent evidence of the identity of the trustee,  
78 and a certification of trust by the trustee made under oath and containing all of the  
79 information set forth in paragraph (3) of subsection (b) of Code Section 53-12-280; and

80 (2) Upon request and upon payment of reasonable charges therefor, provide a true and  
81 correct photostatic or certified copy of:

82 (A) Any will or codicil to any person upon the presentation to the commissioner of  
83 satisfactory competent evidence of the death of the testator and satisfactory competent  
84 evidence of the identity of such person showing that, with respect to such will or  
85 codicil, such person is an interested person within the meaning of subsection (a) of  
86 Code Section 53-5-2 or is a registered claimant's designated representative pursuant to  
87 Code Section 44-12-239; and

88 (B) Any trust instrument or amendment to a trust instrument to any person upon the  
89 presentation to the commissioner of satisfactory competent evidence of the death of the  
90 settlor and satisfactory competent evidence of the identity of such person showing that,  
91 with respect to such trust or amendment, such person is a trustee, trust director, or  
92 qualified beneficiary, as such terms are defined in Code Sections 53-12-2  
93 and 53-12-500, or is a registered claimant's designated representative pursuant to Code  
94 Section 44-12-239."

95 **SECTION 3.**

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

98 "44-12-218.

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

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

111 **SECTION 4.**

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

115 "44-12-220.

116 (a) A person, ~~excluding another state, claiming~~ including a claimant's designated  
117 representative, who claims an interest in any property paid or delivered to the  
118 commissioner may file with ~~him~~ the commissioner a claim on a form prescribed by ~~him~~ the  
119 commissioner and verified by the claimant or the claimant's designated representative.  
120 This subsection shall not apply to claims made by another state.

121 (b) The commissioner shall consider each claim within 90 days after it is filed and give  
122 written notice to the claimant or, if the person is utilizing the services of a designated  
123 representative, to the claimant's designated representative if the claim is denied in whole  
124 or in part. The notice may be given by mailing it to the claimant's designated  
125 representative, if any, or to the claimant's last address, if any, stated in the claim as the  
126 address to which notices are to be sent. If no address for notices is stated in the claim, the  
127 notice may be mailed to the last address, if any, of the claimant as stated in the claim. No  
128 notice of denial need be given if the claim fails to state either the last address to which  
129 notices are to be sent or the address of the claimant.

130 (c) If a claim is allowed, the commissioner shall pay over or deliver to the claimant the  
131 property or the amount the commissioner actually received or the net proceeds if it has  
132 been sold by the commissioner. If the claim is made by a claimant's designated  
133 representative, the commissioner shall pay over or deliver to the claimant the balance  
134 remaining after deduction and payment of the amount due to the claimant's designated  
135 representative by the commissioner; provided, however, that any payments made directly  
136 to the claimant's designated representative shall be made only after a claim has been  
137 approved, if the claimant's designated representative is registered pursuant to Code  
138 Section 44-12-239, and if the claimant's designated representative provides proof to the  
139 commissioner of an agreement authorized by Code Section 44-12-239. The owner is not  
140 entitled to receive income or other increments accruing after remittance to the  
141 commissioner.

142 (d) ~~The commissioner may, after seven years following the receipt of property, destroy~~  
143 ~~such records related to the property as deemed necessary; and after said seven-year period~~  
144 ~~any claim relating to such property must be fully substantiated by a claimant, without~~  
145 ~~recourse to such records~~ shall maintain an electronic copy of all records related to the  
146 property. Each certified electronic copy of a document that is stored pursuant to this  
147 subsection shall be deemed an original pursuant to Chapter 10 of Title 24.

148 (e)(1) The department shall promulgate rules and regulations to determine as to the  
149 resolution procedures relative to  
150 conflicting claims received by the department for the same unclaimed property. Such rules  
151 and regulations shall consider, but shall not be limited to, the following and any other factors  
152 consistent with the requirements and intent of this article:

153 (A) Preference shall be given to the person submitting the first claim that is complete  
154 or made complete;

155 (B) When a claimant's claim and a claimant's representative's claim are received by the  
156 department on the same day, and both claims are complete, the claimant shall be given  
157 preference;

158 (C) Any attempts to revoke a properly executed contract between a claimant and  
159 claimant's representative shall also be considered; and

160 (D) When two properly executed claimant's representative's claims are received by the  
161 department on the same day, preference shall be given to the claimant's representative  
162 that assesses the lowest fee.

163 (2) Nothing in this subsection shall extinguish, impair, or affect any private right of  
164 action that one person may have against another for breach of contract, tort, or other  
165 statutory or common-law remedy; provided, however, the department shall not be liable  
166 to any person for acting in conformance with this article and its rules and regulations."

167 **SECTION 5.**

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

170 "44-12-221.

171 (a) Any person aggrieved by a decision of the commissioner or whose claim the  
172 commissioner has failed to act upon within 90 days after the filing of the claim may appeal  
173 such decision or lack of decision to the Superior Court of Fulton County. The proceeding  
174 shall be brought within 90 days after the decision of the commissioner or within 180 days  
175 of the filing of the claim if the commissioner fails to act. The appeal shall be tried de novo  
176 without a jury. The record on appeal shall be limited to the evidence before the  
177 commissioner; provided, however, that the court may allow a party to supplement the  
178 record for good cause.

179 (b) In rendering a determination regarding the merits of an unclaimed property claim, the  
180 commissioner shall rely on the applicable statutes, regulations, and decisions of relevant  
181 courts. The commissioner shall consider evidence that would be admissible in contested  
182 cases arising under the 'Georgia Administrative Procedure Act' as set forth in Code  
183 Section 50-13-15. In any proceeding for determination of a claim to property, the burden  
184 shall be upon the claimant to establish entitlement to the property by a preponderance of  
185 evidence."

186

## SECTION 6.

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

190 "44-12-224.

191 (a) All agreements to pay compensation to recover or assist in the recovery of property  
192 reported and delivered to the commissioner under this article shall be ~~unenforceable for 24~~  
193 ~~months after the date of payment or the delivery of property to the commissioner~~ written  
194 in at least ten-point type, shall describe the services to be performed, and shall state the  
195 estimated aggregate value of the property, if known, the percentage and estimated amount



196 to be paid as compensation for services, and the estimated amount the owner will receive  
 197 after compensation is deducted, in a format substantially similar to the following:

198 \$ \_\_\_\_\_ Estimated dollar value of the unclaimed property, if known

199 # \_\_\_\_\_ Number of unliquidated shares

200 \$ \_\_\_\_\_ / \_\_\_\_\_ % Estimated compensation expressed as a dollar amount and  
 201 percentage

202 (If the actual value of the unclaimed property paid is less than shown above, the  
 203 amount of compensation shall be reduced to reflect the percentage of unclaimed  
 204 property that is paid.)

205 \$ \_\_\_\_\_ Estimated net amount to be paid to claimant(s), if known  
 206 (PENDING will appear when claimant's interest is pending judicial determination.)

207 The agreement shall be signed by the claimant, and electronic signatures shall be permitted  
 208 pursuant to Code Section 10-12-7. The claimant shall also provide to the department  
 209 sufficient proof of identity, as established by the department's rules and regulations,  
 210 including proper identification as provided for in Code Section 44-12-240.

211 ~~(b) The fees charged by any person, firm, or corporation to recover or assist in the~~  
 212 ~~recovery for and on behalf of a claimant of property reported and delivered to the~~  
 213 ~~commissioner under this article shall not exceed 10 percent of the value of the property~~  
 214 ~~recovered. All funds or property located by a person to be compensated by the payment~~  
 215 ~~of such a fee shall be paid or delivered directly to the owner and may not be paid or~~  
 216 ~~delivered to the person to receive the fee whether pursuant to a duly executed power of~~  
 217 ~~attorney or otherwise. Contracts authorized by this Code Section shall not allow for~~  
 218 ~~payment to a claimant's designated representative to exceed 30 percent of the unclaimed~~  
 219 ~~property's value. The 30 percent compensation limit shall not apply if a judicial order,~~  
 220 ~~judgment, or decree to document entitlement provides otherwise or if an owner sells the~~  
 221 ~~unclaimed property to a third-party purchaser. To receive compensation, a claimant's~~

222 designated representative must be registered with the commissioner pursuant to Code  
223 Section 44-12-239, unless exempt."

224 **SECTION 7.**

225 Said article is further amended by revising Code Section 44-12-225, relating to  
226 confidentiality of information or records required by this article, as follow:

227 "44-12-225.

228 Any information or records required to be furnished to the commissioner shall be  
229 confidential except as otherwise necessary in the proper administration of this article.

230 Confidential information includes social security numbers, federal tax identification  
231 numbers, and holder account numbers."

232 **SECTION 8.**

233 Said article is further amended by adding new Code Sections to read as follows:

234 "44-12-239.

235 (a) Upon written request, the commissioner shall provide a registered claimant's designated  
236 representative the following account information in a searchable and sortable data base for  
237 all unclaimed accounts:

238 (1) Name of the apparent owner. If the property is from an insurance policy, provide the  
239 name of the insured and beneficiary, including the beneficiary's relation to the insured,  
240 if applicable;

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

243 (3) Owner account relation/vesting codes utilized by the National Association of  
244 Unclaimed Property Administrators;

245 (4) Cash amount;

246 (5) Unliquidated securities or mutual funds account; number of shares, name of the  
247 issuer of the security or mutual funds account, and Committee on Uniform Securities  
248 Identification Procedures number, if available;  
249 (6) Safe-deposit box contents with descriptions utilized by the National Association of  
250 Unclaimed Property Administrators;  
251 (7) Property type descriptions utilized by the National Association of Unclaimed  
252 Property Administrators;  
253 (8) Date of last activity;  
254 (9) Year property was reported to the commissioner; and  
255 (10) Holder's name and contact information.

256 (b) To receive unclaimed property account information and to receive compensation for  
257 services, a claimant's designated representative must register with the commissioner on a  
258 form and in a manner prescribed by the commissioner and pay a \$1,200.00 fee to the  
259 commissioner. The form shall contain information the department deems reasonably  
260 necessary to administer the requirements of this article. The registration shall have a  
261 four-year term and may be renewed if the claimant's designated representative continues  
262 to meet the applicable criteria. Upon renewal, a claimant's designated representative shall  
263 pay a renewal fee of \$1,200.00. To register, a claimant's designated representative shall  
264 provide the commissioner with a primary business address and telephone number; the  
265 name, telephone number, and email address of the individual who will be the primary point  
266 of contact with the commissioner; a form of proper identification, as provided for in Code  
267 Section 44-12-240; and a document granting the commissioner or his or her designee  
268 authority to conduct a criminal background check. A claimant's designated representative  
269 is ineligible for registration if, within the immediately preceding 20 years, the  
270 representative, or the representative's officer, owner, or employee who performs or directs  
271 services, was convicted of a misdemeanor or felony involving dishonesty, deceit, or fraud,  
272 or a verdict finding a breach of fiduciary duty. Nothing in this Code section shall be

273 construed to reduce or otherwise alter requirements of claimants to prove their identity to  
274 the department.

275 (c) The submission of any knowingly false information by any person to the commissioner  
276 pursuant to this article may be punishable by law, including as a false statement prohibited  
277 by Code Section 16-10-20.

278 (d) A claimant's designated representative who receives unclaimed property information  
279 from the commissioner is prohibited from distributing such information except for the  
280 purpose of soliciting owners of unclaimed property to offer claim services. Any violation  
281 of this Code section shall be a misdemeanor, and the commissioner may refer a suspected  
282 violation to the Attorney General for prosecution.

283 (e) A claimant's designated representative, and any person claiming an exemption from  
284 registration pursuant to subsection (d) of this Code section, is required to provide the  
285 commissioner of any change in the primary business address or telephone number or any  
286 change in the name, telephone number, or email address of the individual who will be the  
287 primary point of contact for the commissioner, or of any new convictions of such  
288 individual. Such information shall be provided to the commissioner within 30 days of the  
289 described change. Failure to comply with this subsection shall result in immediate  
290 revocation of the registration as a claimant's designated representative or the person's  
291 ability to represent claimants before the department.

292 (f) The registration requirement imposed by subsection (b) of this Code section shall not  
293 apply to an attorney licensed to practice law in Georgia or a person representing an active  
294 corporate entity seeking to recover the entity's unclaimed property; provided, however, that  
295 the department shall require a person claiming an exemption pursuant to subsection (d) of  
296 this Code section to establish such persons's identity to the department. Verification shall  
297 include, but shall not be limited to, providing proof of the person's license to practice law,  
298 if applicable, and employment status as may be determined by the department through rule  
299 or regulation.

300 (g) A registered claimant's designated representative is authorized to submit claims and  
301 respond to requests for additional information on behalf of an apparent owner and to  
302 receive information related to accounts claimed directly from the commissioner.

303 (h) Any solicitation from a claimant's designated representative to an owner of unclaimed  
304 property shall include the following notice in all capital letters in at least 12 point type or  
305 in a font larger than the font utilized in the solicitation, whichever is larger: 'THIS IS A  
306 SOLICITATION. THIS IS NOT A BILL OR OFFICIAL GOVERNMENT DOCUMENT  
307 AND HAS NOT BEEN SENT BY THE GEORGIA DEPARTMENT OF REVENUE.  
308 YOU ARE NOT REQUIRED TO USE THE SERVICES OFFERED IN THIS  
309 SOLICITATION.'

310 44-12-240.

311 Each claimant's designated representative shall present proper identification to the  
312 commissioner at the time of registering as a claimant's designated representative and at any  
313 time thereafter requested by the department. Proper identification shall consist of any one  
314 of the following:

- 315 (1) A valid driver's license which was properly issued by an appropriate state agency;  
316 (2) A valid United States passport;  
317 (3) A valid employee identification card containing a photograph of the claimant's  
318 designated representative and issued by any branch, department, agency, or entity of the  
319 United States government, this state, or any county, municipality, board, authority, or  
320 other entity of this state;  
321 (4) A valid United States military identification card, provided that such identification  
322 card contains a photograph of the claimant's designated representative;  
323 (5) A valid tribal identification card containing a photograph of the claimant's designated  
324 representative; or

325 (6) Another type of government issued photo identification set forth in the rules and  
326 regulations of the department.

327 44-12-241.

328 (a)(1) In addition to his or her other duties and responsibilities to administer this article,  
329 the commissioner may deny, suspend, or cancel any exemption authorized by or license  
330 or permit required pursuant to this article if:

331 (A) The license application is not filed in good faith or is filed by some person as a  
332 subterfuge for any other person;

333 (B) Any applicant for a license or permit or any licensee or permit holder under this  
334 article willfully fails to comply with any provisions of this article or with rules and  
335 regulations adopted by the commissioner; or

336 (C) Any person to whom a license or permit has been issued is no longer engaged in  
337 work being a claimant's designated representative, as defined in Code  
338 Section 44-12-192, or no longer qualifies as a licensee or permit holder pursuant to the  
339 provisions of this article.

340 (2) Before any denial, suspension, or cancellation of a license or permit granted pursuant  
341 to this title, the applicant, licensee, or permit holder shall be afforded a hearing in the  
342 manner and subject to the conditions and procedures established by this article and the  
343 commissioner. The commissioner shall notify an applicant, licensee, or permit holder in  
344 writing of the denial, suspension, or cancellation by registered or certified mail or  
345 statutory overnight delivery to the last known address of the applicant, licensee, or permit  
346 holder appearing in the commissioner's files or by personal service upon the applicant,  
347 licensee, or permit holder by an authorized agent of the commissioner. Upon cancellation  
348 of a license or permit for cause under this paragraph, there shall be no renewal or  
349 reissuance of the canceled license or permit for a period of two years from the date of  
350 cancellation."

351 **SECTION 9.**

352 This Act shall become effective on January 1, 2024.

353 **SECTION 10.**

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