

The Senate Economic Development and Tourism Committee offered the following substitute to SB 395:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 10-13-3 of the Official Code of Georgia Annotated, relating to
2 deposits into escrow accounts under the Master Settlement Agreement with tobacco product
3 manufacturers, so as to change a provision relating to release of funds from escrow for
4 tobacco product manufacturers who are not participating manufacturers under the Master
5 Settlement Agreement; to provide for severability; to provide an effective date and for
6 applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

8 Code Section 10-13-3 of the Official Code of Georgia Annotated, relating to deposits into
9 escrow accounts under the Master Settlement Agreement with tobacco product
10 manufacturers, is amended by striking subparagraph (B) of paragraph (2) and inserting in lieu
11 thereof the following:
12

13 "(B) A tobacco product manufacturer that places funds into escrow pursuant to
14 subparagraph (A) of this paragraph shall receive the interest or other appreciation on
15 such funds as earned. Such funds themselves shall be released from escrow only under
16 the following circumstances:

17 (i) To pay a judgment or settlement on any released claim brought against such
18 tobacco product manufacturer by the state or any releasing party located or residing
19 in the state. Funds shall be released from escrow under this division: (I) in the order
20 in which they were placed into escrow; and (II) only to the extent and at the time
21 necessary to make payments required under such judgment or settlement;

22 (ii) To the extent that a tobacco product manufacturer establishes that the amount it
23 was required to place into escrow on account of units sold in the state in a particular
24 year was greater than ~~the state's allocable share of the total payments that such~~
25 ~~manufacturer would have been required to make in that year under the Master~~
26 ~~Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master~~

1 ~~Settlement Agreement, and before any of the adjustments or offsets described in~~
 2 ~~section IX(i)(3) of that Agreement other than the Inflation Adjustment) the Master~~
 3 ~~Settlement Agreement payments, as determined pursuant to section IX(i) of that~~
 4 ~~Agreement including after final determination of all adjustments, that such~~
 5 ~~manufacturer would have been required to make on account of such units sold~~ had it
 6 been a participating manufacturer, the excess shall be released from escrow and revert
 7 back to such tobacco product manufacturer; or
 8 (iii) To the extent not released from escrow under division (i) or (ii) of this
 9 subparagraph, funds shall be released from escrow and revert back to such tobacco
 10 product manufacturer 25 years after the date on which they were placed into escrow."

11 **SECTION 2.**

12 If this Act, or any portion of the amendment to division (ii) of subparagraph (B) of paragraph
 13 (2) of Code Section 10-13-3 made by this Act, is held by a court of competent jurisdiction
 14 to be unconstitutional, then such division (ii) shall be deemed to be repealed in its entirety.
 15 If subparagraph (B) of paragraph (2) of Code Section 10-13-3 shall thereafter be held by a
 16 court of competent jurisdiction to be unconstitutional, then this Act shall be deemed repealed,
 17 and division (ii) of subparagraph (B) of paragraph (2) of Code Section 10-13-3 shall be
 18 restored as if no such amendments had been made. Neither any holding of
 19 unconstitutionality nor the repeal of division (ii) of subparagraph (B) of paragraph (2) of
 20 Code Section 10-13-3 shall affect, impair, or invalidate any other portion of Code Section
 21 10-13-3, or the application of such Code section to any other person or circumstance, and
 22 such remaining portions of Code Section 10-13-3 shall at all times continue in force and
 23 effect.

24 **SECTION 3.**

25 This Act shall become effective upon its approval by the Governor or upon its becoming law
 26 without such approval and shall govern all requests for the release of escrow moneys made
 27 on or after such date.

28 **SECTION 4.**

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