

Senate Bill 395

By: Senators Tolleson of the 18th, Hamrick of the 30th and Mullis of the 53rd

**AS PASSED**

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:

8 **SECTION 1.**

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

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~~  
27 ~~Settlement Agreement, and before any of the adjustments or offsets described in~~

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

## 10 **SECTION 2.**

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 13 to be unconstitutional, then such division (ii) shall be deemed to be repealed in its entirety.  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 15 court of competent jurisdiction to be unconstitutional, then this Act shall be deemed repealed,  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

## 23 **SECTION 3.**

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

## 27 **SECTION 4.**

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