

House Bill 359

By: Representatives Nimmer of the 178<sup>th</sup>, Hatchett of the 150<sup>th</sup>, Coomer of the 14<sup>th</sup>, England of the 116<sup>th</sup>, Powell of the 171<sup>st</sup>, and others

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 require the commissioner of revenue  
3 to deposit certain funds in the state treasury; to amend Chapter 16 of Title 48 of the Official  
4 Code of Georgia Annotated, relating to the tax amnesty program, so as to require the  
5 commissioner of revenue to deposit certain funds in the state treasury; to provide for related  
6 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 5 of Chapter 12 of Title 44 of the Official Code of Georgia Annotated, relating to  
10 disposition of unclaimed property, is amended by revising Code Section 44-12-218, relating  
11 to disposition of funds received under article and authorized deductions, as follows:

12 "44-12-218.

13 (a) All funds received under this article, including the proceeds from the sale of abandoned  
14 property under Code Section 44-12-217, shall forthwith be deposited by the commissioner  
15 in the general fund, ~~except that the commissioner shall retain in a separate trust fund a sum~~  
16 ~~sufficient from which he shall make prompt payment of claims duly allowed by him as~~  
17 ~~provided in Code Section 44-12-220.~~ Before making a deposit he or she shall record the  
18 name and last known address of each person appearing from the holders' reports to be  
19 entitled to the abandoned property and of the name and last known address of each insured  
20 person or annuitant and, with respect to each policy or contract listed in the report of an  
21 insurance corporation, its number, the name of the corporation, and the amount due.

22 (b) ~~Before making any deposit to the credit of the general fund the commissioner may~~  
23 ~~deduct:~~

24 (1) ~~Any costs in connection with sale of abandoned property;~~

25 (2) ~~Any costs of mailing and publication in connection with any abandoned property;~~

26 (3) ~~Operating expenses;~~

27 ~~(4) Amounts required to make payments to other states, during the next fiscal year,~~  
 28 ~~through reciprocity agreements; and~~  
 29 ~~(5) Expenses for consulting services."~~

30

## SECTION 2.

31 Chapter 16 of Title 48 of the Official Code of Georgia Annotated, relating to the tax amnesty  
 32 program, is amended by revising Code Section 48-16-10, relating to the imposition of a cost  
 33 of collection fee after the amnesty period expires, as follows:

34 "48-16-10.

35 (a) In addition to all other penalties provided under this chapter or any other law, the  
 36 commissioner may by regulation impose after the expiration of the tax amnesty period a  
 37 cost of collection fee of 20 percent of any deficiency assessed for any taxable period ending  
 38 or transactions occurring after December 31, 1990. This fee shall be in addition to all other  
 39 applicable penalties, fees, or costs. The commissioner shall have the right to waive any  
 40 collection fee when it is demonstrated that any deficiency of the taxpayer was not due to  
 41 negligence, intentional disregard of administrative rules and regulations, or fraud.  
 42 ~~Notwithstanding any other provision of law, the department is authorized to retain all funds~~  
 43 ~~received as collection fees imposed by the commissioner for use in defraying the cost of~~  
 44 ~~collection of deficient taxes. Any such funds not expended for this purpose in the fiscal~~  
 45 ~~year in which they are generated shall be deposited in the state treasury; provided,~~  
 46 ~~however, that nothing in this Code section shall be construed so as to allow the department~~  
 47 ~~to retain any funds required by the Constitution of Georgia to be paid into the state~~  
 48 ~~treasury; and provided, further, that the department shall comply with all provisions of Part~~  
 49 ~~1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' except Code Section 45-12-92,~~  
 50 ~~prior to expending any such funds.~~

51 (b) In addition to all other penalties provided under this chapter or any other law, the  
 52 commissioner may pursuant to regulation impose after the expiration of the tax amnesty  
 53 period a cost of collection fee of 50 percent of any deficiency assessed after the amnesty  
 54 period for taxable periods ending or transactions occurring on or before December 31,  
 55 1990, regardless of when due. This fee shall be in addition to all other applicable penalties,  
 56 fees, or costs. The commissioner shall have the right to waive any collection fee when it  
 57 is demonstrated that any deficiency of the taxpayer was not due to negligence, intentional  
 58 disregard of administrative rules and regulations, or fraud. ~~Notwithstanding any other~~  
 59 ~~provision of law, the department is authorized to retain all funds received as collection fees~~  
 60 ~~imposed by the commissioner for use in defraying the cost of collection of deficient taxes.~~  
 61 ~~Any such funds not expended for this purpose in the fiscal year in which they are generated~~  
 62 ~~shall be deposited in the state treasury; provided, however, that nothing in this Code section~~

63 ~~shall be construed so as to allow the department to retain any funds required by the~~  
64 ~~Constitution of Georgia to be paid into the state treasury; and provided, further, that the~~  
65 ~~department shall comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45,~~  
66 ~~the 'Budget Act,' except Code Section 45-12-92, prior to expending any such funds.~~

67 (c) The provisions of subsections (a) and (b) of this Code section shall not apply to any  
68 account which has been protested pursuant to Code Section 48-2-46 as of the expiration of  
69 the amnesty period and which does not become final, due, and owing, or to any account on  
70 which the taxpayer is remitting timely payments under a payment agreement negotiated  
71 with the commissioner prior to or during the amnesty period.

72 (d) The fee levied under subsections (a) and (b) of this Code section shall not apply to  
73 taxes paid pursuant to the terms of the amnesty program."

74 **SECTION 3.**

75 This Act shall become effective upon its approval by the Governor or upon its becoming law  
76 without such approval.

77 **SECTION 4.**

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