

House Bill 359 (AS PASSED HOUSE AND SENATE)

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

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 12 of Title 44 of the Official Code of Georgia Annotated,
2 relating to choses in action, so as to provide that actions for legal malpractice are not
3 assignable; to amend Article 5 of Chapter 12 of Title 44 of the Official Code of Georgia
4 Annotated, relating to disposition of unclaimed property, so as to require the commissioner
5 of revenue to deposit certain funds in the state treasury; to amend Chapter 16 of Title 48 of
6 the Official Code of Georgia Annotated, relating to the tax amnesty program, so as to require
7 the commissioner of revenue to deposit certain funds in the state treasury; to provide for
8 related matters; to provide for an effective date; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 2 of Chapter 12 of Title 44 of the Official Code of Georgia Annotated, relating to
13 choses in action, is amended by revising Code Section 44-12-24, relating to assignment of
14 rights of action, as follows:

15 "44-12-24.

16 Except for those situations governed by Code Sections 11-2-210 and 11-9-406, a right of
17 action is assignable if it involves, directly or indirectly, a right of property. A right of action
18 for personal torts, for legal malpractice, or for injuries arising from fraud to the assignor
19 may not be assigned."

20 **SECTION 2.**

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

24 "44-12-218.

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

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

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

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

38 (3) ~~Operating expenses;~~

39 (4) ~~Amounts required to make payments to other states, during the next fiscal year,~~
 40 ~~through reciprocity agreements; and~~

41 (5) ~~Expenses for consulting services."~~

42 SECTION 3.

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

46 "48-16-10.

47 (a) In addition to all other penalties provided under this chapter or any other law, the
 48 commissioner may by regulation impose after the expiration of the tax amnesty period a
 49 cost of collection fee of 20 percent of any deficiency assessed for any taxable period ending
 50 or transactions occurring after December 31, 1990. This fee shall be in addition to all other
 51 applicable penalties, fees, or costs. The commissioner shall have the right to waive any
 52 collection fee when it is demonstrated that any deficiency of the taxpayer was not due to
 53 negligence, intentional disregard of administrative rules and regulations, or fraud.
 54 ~~Notwithstanding any other provision of law, the department is authorized to retain all funds~~
 55 ~~received as collection fees imposed by the commissioner for use in defraying the cost of~~
 56 ~~collection of deficient taxes. Any such funds not expended for this purpose in the fiscal~~
 57 ~~year in which they are generated shall be deposited in the state treasury; provided,~~
 58 ~~however, that nothing in this Code section shall be construed so as to allow the department~~
 59 ~~to retain any funds required by the Constitution of Georgia to be paid into the state~~

60 treasury; and provided, further, that the department shall comply with all provisions of Part
 61 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,' except Code Section 45-12-92,
 62 prior to expending any such funds.

63 (b) In addition to all other penalties provided under this chapter or any other law, the
 64 commissioner may pursuant to regulation impose after the expiration of the tax amnesty
 65 period a cost of collection fee of 50 percent of any deficiency assessed after the amnesty
 66 period for taxable periods ending or transactions occurring on or before December 31,
 67 1990, regardless of when due. This fee shall be in addition to all other applicable penalties,
 68 fees, or costs. The commissioner shall have the right to waive any collection fee when it
 69 is demonstrated that any deficiency of the taxpayer was not due to negligence, intentional
 70 disregard of administrative rules and regulations, or fraud. ~~Notwithstanding any other~~
 71 ~~provision of law, the department is authorized to retain all funds received as collection fees~~
 72 ~~imposed by the commissioner for use in defraying the cost of collection of deficient taxes.~~
 73 ~~Any such funds not expended for this purpose in the fiscal year in which they are generated~~
 74 ~~shall be deposited in the state treasury; provided, however, that nothing in this Code section~~
 75 ~~shall be construed so as to allow the department to retain any funds required by the~~
 76 ~~Constitution of Georgia to be paid into the state treasury; and provided, further, that the~~
 77 ~~department shall comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45,~~
 78 ~~the 'Budget Act,' except Code Section 45-12-92, prior to expending any such funds.~~

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

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

86 **SECTION 4.**

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

89 **SECTION 5.**

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