

House Bill 413

By: Representatives Parsons of the 44th and Burns of the 159th

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 44 and 46 of the Official Code of Georgia Annotated, relating to property
2 and public utilities and public transportation, respectively, so as to provide for regulation of
3 certain matters pertaining to rural telephone cooperatives; to provide for the donation of
4 abandoned dividends or capital credits by rural telephone cooperatives for certain purposes;
5 to provide for definitions; to provide for venue in proceedings against rural telephone
6 cooperatives; to change certain provisions relating to the bylaws of rural telephone
7 cooperatives; to provide for return of revenues upon the death of a member of a rural
8 telephone cooperative; to provide for related matters; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
13 adding a new Code section to read as follows:

14 "44-12-236.1.

15 (a) As used in the Code section, the term:

16 (1) 'Area' means any county in which a telephone cooperative provides telephone service
17 and any county adjacent thereto.

18 (2) 'Telephone cooperative' shall have the same meaning as provided for the term
19 'cooperative' in Code Section 46-5-62.

20 (3) 'Telephone service' shall have the same meaning as provided for in Code
21 Section 46-5-62.

22 (b) All patronage dividends or capital credits held by a telephone cooperative that are
23 presumed abandoned pursuant to this article in a given calendar year may, in lieu of
24 payment of delivery to the commissioner pursuant to this article, be donated to a nonprofit
25 organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code

26 that supports education or economic development in the area if the telephone cooperative
 27 has:

28 (1) Maintained for at least six months on the telephone cooperative's website or on a
 29 public posting in the telephone cooperative's main office, a list of the names and last
 30 known addresses of all owners of property held by the telephone cooperative that have
 31 been presumed abandoned, together with instructions on how to claim such property; and
 32 (2) Published in the legal organ in the county in which the telephone cooperative's main
 33 office is located notice of the last date to claim property that has been presumed
 34 abandoned. Such notice shall be published within three to six months prior to the last
 35 date to claim the property and shall state that the names of the owners may be found at
 36 the telephone cooperative's website or main office."

37 **SECTION 2.**

38 Title 46 of the Official Code of Georgia Annotated, relating to public utilities and public
 39 transportation, is amended by adding a new Code section to read as follows:

40 "46-5-64.1.

41 (a) Venue in proceedings against a cooperative shall be determined in accordance with the
 42 Constitution of Georgia and this Code section.

43 (b) Unless otherwise required by the Constitution of Georgia, a cooperative may be sued
 44 only in the county of its residence, as described below:

45 (1) Each cooperative authorized to transact business in this state shall be deemed to
 46 reside in the county where its registered office is maintained. If any such cooperative
 47 fails to maintain a registered office, it shall be deemed to reside in the county in this state
 48 where its last named registered office or principal office, as shown by the records of the
 49 Secretary of State, was maintained;

50 (2) Each cooperative authorized to transact business in this state shall be deemed to
 51 reside and may be sued on contracts in the county in which the contract sought to be
 52 enforced was made or is to be performed, if it has an office and transacts business in that
 53 county; or

54 (3) Each cooperative authorized to transact business in this state shall be deemed to
 55 reside, and may be sued for damages because of torts, wrong, or injury done, in the
 56 county where the cause of action originated, if it has an office and transacts business in
 57 that county."

58 **SECTION 3.**

59 Said title is further amended by revising Code Section 46-5-78, relating to bylaws of
60 cooperative generally, as follows:

61 "46-5-78.

62 The board of directors shall adopt the first bylaws of a cooperative to be adopted following
63 an incorporation, conversion, combined consolidation and conversion, merger, or
64 consolidation. Thereafter, the board of directors shall have the power to alter, amend, or
65 repeal the bylaws, or adopt new bylaws, unless such power is reserved exclusively to the
66 members by this part, the articles of incorporation, or bylaws previously adopted by the
67 members; provided, however, that any bylaws adopted by the board of directors may be
68 altered, amended, or repealed and new bylaws may be adopted by the members. The
69 members may prescribe that any bylaws adopted by them shall not be altered, amended,
70 or repealed by the board of directors. The members shall may adopt, amend, or repeal the
71 bylaws by the affirmative vote of a majority of those members voting thereon at a meeting
72 of the members. The bylaws shall set forth the rights and duties of members, directors, and
73 shareholders, if any, and may contain other provisions for the regulation and management
74 of the affairs of the cooperative not inconsistent with this part or with its articles of
75 incorporation."

76 **SECTION 4.**

77 Said title is further amended by adding a new Code section to read as follows:

78 "46-5-92.1.

79 (a) Unless the bylaws otherwise provide, upon the death of a member or former member
80 who is a natural person, the board of directors shall have authority, but shall not be
81 required, to pay revenues allocated but not previously paid to that member or former
82 member.

83 (b) If the member or former member dies testate, such payments shall be made to the
84 person who is the executor of the estate of the decedent at the time of the payment.

85 (c) If the member or former member dies intestate and the cooperative is provided a copy
86 of letters of administration for the estate of the decedent, such payments shall be made to
87 the administrator of the estate named therein.

88 (d) If the member or former member dies intestate and the cooperative is not provided a
89 copy of letters of administration of the estate of the deceased and such payment
90 is \$2,500.00 or less, such payment shall be made to the persons listed below and according
91 to the priority indicated:

92 (1) To the surviving spouse of the decedent;

93 (2) If no surviving spouse, then to the surviving children of the decedent, pro rata;

94 (3) If no surviving children, then to the surviving mother and father of the decedent,
95 pro rata; or

96 (4) If no surviving parent, then to the surviving brothers and sisters of the decedent,
97 pro rata.

98 (e) If the member or former member dies intestate and the cooperative is not provided a
99 copy of the letters of administration and such payment is greater than \$2,500.00, such
100 payment shall be made to the person entitled thereto under the laws of descent and
101 distribution of this state.

102 (f) Payment to the persons listed in subsections (b) through (e) of this Code section shall
103 operate as a complete acquittal and discharge to the cooperative from any action, claim, or
104 demand of whatever nature for the amount so paid by any heir, distributee, or creditor of
105 the decedent or any other person. Payment to such persons is authorized to be made as
106 provided in subsections (d) and (e) of this Code section without the administration of the
107 estate of the decedent and without the necessity of obtaining an order that no administration
108 is necessary."

109 **SECTION 5.**

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