

Senate Bill 403

By: Senators Kirkpatrick of the 32nd, Walker III of the 20th, Anavitarte of the 31st, Parent of the 44th, Albers of the 56th 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 provide for exceptions to when
3 property is presumed abandoned; to provide for abandonment and liquidation of virtual
4 currency; to authorize delay of publication of notice on the "Georgia Unclaimed Property
5 List" under certain circumstances; to provide for methods of payment of claims; to provide
6 for payments in the absence of claims; to waive the requirement of a probate court order for
7 claims of heirs under certain circumstances; to provide for circumstances under which a
8 claim is void; to provide for definitions; to amend Title 48 of the Official Code of Georgia
9 Annotated, relating to revenue and taxation, so as to waive confidentiality of certain tax
10 records; to provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Article 5 of Chapter 12 of Title 44 of the Official Code of Georgia Annotated, relating to
14 disposition of unclaimed property, is amended in Code Section 44-12-192, relating to
15 definitions, by revising paragraph (6) and adding new paragraphs to read as follows:

16 "(0.5) 'Adult' means an individual 18 years of age or older."

17 "(6) 'Due diligence' means, but shall not be limited to, the mailing of a letter by first-class
18 mail to the last known address of the owner as indicated on the records of the holder. If
19 a holder maintains a valid email address for the owner and the owner has agreed to
20 receive communications electronically, the holder shall send notice by both first-class
21 mail and electronic mail to such address. For properties over \$10,000.00, mailed letters
22 shall be sent by certified mail."

23 "(7.1) 'Heir' means an adult who is the:

24 (A) Surviving spouse of a deceased owner;

25 (B) Adult child of a deceased owner;

26 (C) Parent of a deceased owner; or

27 (D) Adult sibling of a deceased owner."

28 "(20) 'Virtual currency' means property consisting of any type of digital unit, including
29 cryptocurrency, used as a medium of exchange, unit of account, or a form of digitally
30 stored value, which does not have legal tender status recognized by the United States.

31 Such term does not include:

32 (A) The software or protocols governing the transfer of virtual currency;

33 (B) Game related digital content; or

34 (C) A general use gift card or store gift card, as such terms are defined in Code
35 Section 10-1-393."

36 **SECTION 2.**

37 Said article is further amended by revising Code Section 44-12-193, relating to when
38 property held, issued, or owing in ordinary course of holder's business presumed abandoned,
39 as follows:

40 "44-12-193.

41 (a) Except as provided in Article 17B of Title 10, all tangible and intangible property,
42 including any income or increment thereon, less any lawful charges, that is held, issued,

43 or owing in the ordinary course of the holder's business and has remained unclaimed by the
44 owner for more than five years after it became payable or distributable is presumed
45 abandoned, except as otherwise provided by this article. Property is payable or
46 distributable for the purpose of this article notwithstanding the owner's failure to make
47 demand or to present any instrument or document required to receive payment.

48 (b) For purposes of Code Sections 44-12-194 through 44-12-209, property shall not be
49 considered abandoned if an apparent owner expresses interest by either:

50 (1) Directing activity in the account in which the property is held, such as by
51 electronically accessing the account or information concerning the account; or

52 (2) Increasing, decreasing, or otherwise changing the amount or type of property held in
53 the account."

54 **SECTION 3.**

55 Said article is further amended by adding a new Code section to read as follows:

56 "44-12-197.1.

57 (a) Any virtual currency held or owing by a banking organization, corporation, custodian,
58 exchange, or other entity engaged in virtual currency business activity shall be presumed
59 abandoned unless the owner, within five years, communicates in writing with the banking
60 organization, corporation, custodian, exchange, or other entity engaged in virtual currency
61 business activity concerning the virtual currency or otherwise indicates an interest as
62 evidenced by a memorandum or other record on file with the banking organization,
63 corporation, custodian, exchange, or other entity engaged in virtual currency business
64 activity.

65 (b) A holder shall not deduct from the amount of any virtual currency subject to this Code
66 section any charges imposed by reason of the virtual currency unless a valid and
67 enforceable written contract exists between the holder and the owner of the virtual currency

68 pursuant to which the holder may impose such charges and the holder does not regularly
69 reverse or otherwise cancel the charges with respect to the virtual currency."

70 **SECTION 4.**

71 Said article is further amended in Code Section 44-12-214, relating to report and remittance
72 of persons holding property presumed abandoned under this article, by adding a new
73 subsection to read as follows:

74 "(i)(1) Regarding virtual currency reported to the commissioner pursuant to this Code
75 section, the holder shall liquidate the virtual currency and remit the proceeds to the
76 commissioner.

77 (2) The liquidation required by paragraph (1) of this subsection shall occur within 30
78 days prior to the filing of the report under this Code section. The owner shall not have
79 recourse against the holder or the commissioner to recover any gain in value that occurs
80 after the liquidation of the virtual currency under this subsection.

81 (3) If a holder cannot liquidate virtual currency as required by this subsection, the holder
82 shall promptly notify the commissioner in writing and explain the reasons why the virtual
83 currency cannot be liquidated. Upon receipt of such notification, the commissioner shall
84 direct the holder to either:

85 (A) Transfer the virtual currency that cannot be liquidated to a custodian selected by
86 the commissioner; or

87 (B) Continue to hold the virtual currency until the commissioner or the holder
88 determines that the virtual currency can be liquidated pursuant to this Code section."

89 **SECTION 5.**

90 Said article is further amended in Code Section 44-12-215, relating to publication of
91 "Georgia Unclaimed Property List" and contents of notice, by adding a new subsection to
92 read as follows:

93 "(e) When certain intangible interests in business associations, including, but not limited
94 to, stocks and shares in business associations, are not yet received by the commissioner but
95 are reported under Code Section 44-12-214, the commissioner may decline to publish
96 notice until such property is remitted to the commissioner."

97 **SECTION 6.**

98 Said article is further amended in Code Section 44-12-220, relating to claims for property
99 paid or delivered to commissioner and procedure, by revising subsection (c) and adding new
100 subsections to read as follows:

101 "(c)(1) If a claim submitted by the claimant is approved, the commissioner shall pay over
102 or deliver to the claimant the property or the amount the commissioner actually received
103 or the net proceeds if it has been sold by the commissioner.

104 (2) Any payment made under paragraph (1) of this subsection to a claimant shall be
105 either electronically transmitted or sent by check to such claimant, provided that such
106 payment shall first be credited against any unpaid state tax liability at the time the
107 payment provided for in this subsection is to be issued to a claimant."

108 "(d.1)(1) The commissioner shall also be authorized to make payments pursuant to this
109 article without having received a claim, provided that the:

110 (A) Property is cash;

111 (B) Apparent owner is a natural person and is the sole owner of such property;

112 (C) Identity of such apparent owner has been verified by the commissioner; and

113 (D) Amount to be paid does not exceed \$500.00 per property.

114 (2) Any payment under this subsection to an owner shall be either electronically
115 transmitted or sent by check to such owner, based on the owner's taxpayer refund
116 instructions, if any, as indicated on such taxpayer's income tax return for the most recent
117 taxable year, provided that such payment shall first be credited against any unpaid state

118 tax liability existing at the time the payment provided for in this subsection is to be issued
119 to an owner.

120 (3) The department may review tax records in order to verify the identity of owners in
121 accordance with subparagraph (C) of paragraph (1) of this subsection.

122 (4) All unclaimed property purchase agreements and unclaimed property recovery
123 agreements entered into on or after July 1, 2026, and reported and delivered to the
124 commissioner under this article shall be unenforceable for 120 days after the date of
125 payment or the delivery of property to the commissioner."

126 "(i)(1) An order of a probate court shall not be required for a claimant who is an heir of
127 a deceased owner if the claimant files an affidavit with the department, signed by all
128 heirs, stating that all heirs have amicably agreed upon a division of the estate and that all
129 funeral expenses, expenses of any last illness, and other lawful claims against the estate
130 have been paid. Such affidavit shall include any additional information reasonably
131 necessary to determine entitlement. If the owner died testate, the claim shall be
132 accompanied by a copy of the will.

133 (2) Each person receiving property under this Code section shall be personally liable for
134 all lawful claims against the estate of the owner, but only to the extent of the value of the
135 property received under this Code section, excluding property exempt from claims of
136 creditors under the Constitution and laws of this state.

137 (3) Any heir of the owner who was lawfully entitled to share in the property but did not
138 receive their share may enforce their rights in appropriate proceedings against those who
139 received the property and may, at the discretion of the court, be awarded costs and
140 reasonable attorney's fees.

141 (4) This subsection applies only if the total aggregate value of unclaimed property held
142 by the department on behalf of the owner is equal to or less than \$15,000.00 and no
143 proceeding in any probate court is pending.

144 (j)(1) Beginning on July 1, 2027, any claim made under this Code section for unclaimed
145 property shall be void if the claim is for:

146 (A) Properties with an aggregate value of less than \$10.00 and filed more than five
147 years after the date that the full amount of the claim was remitted to the state; or

148 (B) Property for which a claim is filed more than 25 years after the property was
149 remitted to the state.

150 (2) Unclaimed funds subject to this subsection shall escheat to the state and be
151 transferred to the general fund. Regarding claims under paragraph (1) of this subsection,
152 certain recurring payments, including, but not limited to, interest payments, bond
153 coupons, dividends, mutual fund distributions, annuities, and insurance proceeds, shall
154 not escheat to the state if the total of all recurring payments is over \$10.00."

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SECTION 7.

156 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
157 amended in Article 1 of Chapter 2, relating to state administrative organization, by revising
158 subsection (b) of Code Section 48-2-15, relating to confidential and privileged information,
159 as follows:

160 "(b) This Code section shall not:

161 (1) Be construed to prevent the use of confidential information as evidence before any
162 state or federal court in the event of litigation involving tax liability of any taxpayer;

163 (2) Be deemed to prevent the print or electronic publication of statistics so arranged as
164 not to reveal information respecting an individual taxpayer;

165 (3) Apply in any way whatsoever to any official finding of the commissioner with
166 respect to any assessment or any information properly entered upon an assessment roll
167 or other public record;

- 168 (4) Affect any information which in the regular course of business is by law made the
 169 subject matter of a public document in any federal or state office or in any local office in
 170 this state;
- 171 (5) Apply to information, records, and reports required and obtained under Article 1 of
 172 Chapter 9 of this title, which requires distributors of motor fuels to make reports of the
 173 amounts of motor fuels sold and used in each county by the distributor, or under Article 2
 174 of Chapter 9 of this title, relating to road tax on motor carriers;
- 175 (6) Be construed to prevent the disclosure of information, so arranged as not to reveal
 176 information respecting an individual taxpayer, requested by the House Committee on
 177 Ways and Means or the Senate Finance Committee regarding the department's
 178 administration of any tax; ~~or~~
- 179 (7) Apply to information, records, and reports required and obtained under Title 38 or
 180 Title 46 as each pertains to collection and remittance of prepaid and postpaid 9-1-1 fees
 181 or charges. The application of the exemption provided for under this paragraph to Code
 182 Section 38-3-190 shall apply exclusively to the Georgia Emergency Communications
 183 Authority and Department of Revenue in the handling of such information; or
- 184 (8) Be construed to prevent the use of confidential tax information by the department in
 185 administering the provisions of Code Section 44-12-220."

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SECTION 8.

187 Said title is further amended in Article 3 of Chapter 7, relating to returns and furnishing of
 188 information, by adding a new subsection to Code Section 48-7-60, relating to confidentiality
 189 of tax information, exceptions, authorized inspection by certain officials, furnishing
 190 information to local tax authorities, furnishing information to nonofficials, conditions, and
 191 effect of Code section, to read as follows:

192 "(f) This Code section shall not be construed to prevent the use of confidential tax
 193 information by the department in administering the provisions of Code Section 44-12-220."

194

SECTION 9.

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