

By: Representative Moak

To: Judiciary A

HOUSE BILL NO. 1222

1 AN ACT TO AMEND SECTION 89-12-3, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY CERTAIN DEFINITIONS; TO BRING FORWARD SECTIONS 89-12-15,
3 89-12-17 AND 89-12-23, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF
4 AMENDMENT; TO SET FORTH REQUIREMENTS THAT SHALL APPLY TO CERTAIN
5 INTANGIBLE PERSONAL PROPERTY; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 89-12-3, Mississippi Code of 1972, is
8 amended as follows:

9 89-12-3. As used in this act, unless the context otherwise
10 requires:

11 (a) "Banking organization" means any national or state
12 bank, trust company, savings bank, land bank, private banker, or
13 any similar organization which is engaged in business in this
14 state.

15 (b) "Business association" means any corporation, joint
16 stock company, business trust, partnership, or any association for
17 business purposes of two (2) or more individuals, whether
18 organized for profit or nonprofit, including, but not limited to,
19 a banking organization, financial organization, life insurance
20 corporation and utility.

21 (c) "Financial organization" means any federal or state
22 savings and loan association, building and loan association,
23 credit union, cooperative bank or investment company, or any
24 similar organization which is engaged in business in this state.

25 (d) "Holder" means any person in possession of property
26 subject to the provisions of this act belonging to another, or who
27 is trustee in case of a trust, or is indebted to another on an
28 obligation subject to the provisions of this chapter.

29 (e) "Insurance corporation" means any association or
30 corporation transacting in this state the business of insurance
31 involving in any manner a person or property.

32 (f) "Intangible personal property" includes, but is not
33 limited to:

34 (i) Monies, checks, drafts, deposits, interest,
35 dividends, and income;

36 (ii) Credit balances, customer overpayments, gift
37 certificates, security deposits, refunds, credit memos, unpaid
38 wages or compensation, unused airline tickets, * * * unidentified
39 remittances, and money or credits owed to a customer as a result
40 of a retail business transaction;

41 (iii) Monies deposited to redeem stocks, bonds,
42 coupons, and other securities, or to make distributions;

43 (iv) Amounts due and payable under the terms of
44 insurance policies;

45 (v) Amounts distributable from a trust or
46 custodial fund established under a plan to provide health,
47 welfare, pension, vacation, severance, retirement, death, stock
48 purchase, profit sharing, employee savings, supplemental
49 unemployment insurance, or similar benefits;

50 (vi) Shares of corporate stock and other
51 intangible ownership interests in business associations; and

52 (vii) Bonds, notes and other debt obligations.

53 (g) "Owner" means a depositor in case of a deposit, a
54 beneficiary in case of a trust, a creditor, claimant or payee in
55 case of other choses in action, or any person having a legal or
56 equitable interest in property subject to the provisions of this
57 act, or his legal representative.

58 (h) "Apparent owner" means the person who appears from
59 the records of the holder to be entitled to property held by the
60 holder.

61 (i) "Person" means any individual, business
62 association, government or political subdivision or agency,
63 corporation, public authority, estate, trust, two (2) or more
64 persons having a joint or common interest, or any other legal or
65 commercial entity whether such person is acting in his own right
66 or in a representative capacity.

67 (j) "Treasurer" means the State Treasurer of the State
68 of Mississippi.

69 (k) "Utility" means any person who owns or operates in
70 this state for public use, any plant, equipment, property,
71 franchise, or license for the transmission of communications or
72 the production, storage, transmission, sale, delivery, or
73 furnishing of electricity, water, steam or gas.

74 **SECTION 2.** Section 89-12-15, Mississippi Code of 1972, is
75 brought forward as follows:

76 89-12-15. All intangible personal property not otherwise
77 covered by the provisions of this chapter, including any income or
78 increment thereon and deducting any charges that may have accrued,
79 that is held in the ordinary course of the holder's business and
80 has remained unclaimed by the owner for more than five (5) years
81 after it became payable or distributable shall be presumed
82 abandoned.

83 **SECTION 3.** Section 89-12-17, Mississippi Code of 1972, is
84 brought forward as follows:

85 89-12-17. Unless otherwise provided by statute of this
86 state, intangible personal property shall be presumed abandoned
87 under the provisions of this act if the conditions for presumption
88 of abandonment stated in the provisions of this act exist, and if:

89 (a) The last-known address of the apparent owner is in
90 this state as shown on the records of the holder; or

91 (b) No address of the apparent owner appears on the
92 records of the holder, and

(i) The last-known address of the apparent owner is in this state, or

(ii) The holder is domiciled in this state and has not previously paid the property to the state of the last-known address of the apparent owner, or

(iii) The holder is a government or governmental subdivision or agency of this state and has not previously paid the property to the state of the last-known address of the apparent owner; or

(c) The last-known address of the apparent owner, as shown on the records of the holder, is in a state designated by regulation adopted by the Treasurer as a state that does not provide by law for presumption of abandonment or escheat of such property and the holder is

(i) Domiciled in this state, or

(ii) A government or governmental subdivision or agency of this state; or

(d) The last-known address of the apparent owner, as shown on the records of the holder, is in a foreign nation and the holder is

(i) Domiciled in this state, or

(ii) A government or governmental subdivision or agency of this state.

SECTION 4. Section 89-12-23, Mississippi Code of 1972, is brought forward as follows:

89-12-23. (1) Every person holding funds or other intangible personal property presumed abandoned under the provisions of this chapter shall report to the Treasurer with respect to the property as hereinafter provided.

(2) The report shall be verified, shall be on a form prescribed or approved by the Treasurer, and shall include:

(a) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of

each person appearing from the records of the holder to be the owner of any property of the value of more than One Hundred Dollars (\$100.00) presumed abandoned under the provisions of this chapter;

(b) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last known address according to the life insurance corporation's records;

(c) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under One Hundred Dollars (\$100.00) each may be reported in aggregate;

(d) Except for any property reported in the aggregate, the date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(e) Other information which the Treasurer prescribes by regulation as necessary for the administration of this act.

(3) If the person holding property presumed abandoned under the provisions of this act is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior-known names and addresses of each holder of the property.

(4) The report shall be filed annually through 1984, and reports shall be filed every third year thereafter. The report shall be filed before November 1 of each year in which a report is required as of June 30 next preceding. The Treasurer may postpone the reporting date upon written request by any person required to file a report.

(5) If the holder of property presumed abandoned under the provisions of this act knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of

limitations, the holder shall, before filing the required report, endeavor to communicate with the owner and take reasonable steps to prevent abandonment from being presumed. The mailing of notice to the last-known address of the owner by the holder shall constitute compliance with this subsection and no further act on the part of the holder shall be necessary.

(6) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

(7) Every person who is requested in writing by the Treasurer shall file a report stating that such person is not holding any abandoned property which is reportable pursuant to the provisions of this section.

(8) The initial report filed under this chapter shall include all items of property that would have been presumed abandoned if this act had been in effect since July 1, 1969, and all such property shall be subject to the provisions of this chapter.

SECTION 5. The following shall be codified as a new section in Chapter 12, Title 89, Mississippi Code of 1972:

The following requirements shall apply to intangible personal property as described in Section 89-12-3(f)(ii):

(a) Any credit balance, credit owed to a customer as a result of a business transaction, customer overpayment, security deposit, refund, credit memo, unpaid wages or compensation, or unidentified remittance, including any income or increment thereon and deducting any charges that may have accrued, that is held in the ordinary course of the holder's business and has remained unclaimed by the owner for more than six (6) years after it became payable or distributable shall be presumed abandoned.

(b) A gift certificate, unused airline ticket, or unused voucher for airline travel or credit, owed to the purchaser

192 or owner of the certificate, ticket or voucher, or owed to the
193 donee to whom the certificate, ticket or voucher has been given,
194 that is held by the seller of the certificate or ticket, or the
195 airline awarding the voucher, in the ordinary course of the
196 holder's business, and has remained unclaimed by the purchaser,
197 owner or donee for more than six (6) years after December 31 of
198 the year in which the certificate, ticket or voucher was sold or
199 provided shall be presumed abandoned. The amount abandoned is
200 presumed to be the amount of the face value of the certificate,
201 ticket or voucher, with no depreciation or appreciation applied to
202 the amount. No gift certificate for merchandise or services, and
203 no airline ticket or voucher for airline travel, sold or provided
204 in this state or to a person residing in this state may expire by
205 its terms before five (5) years from the date that it was sold or
206 provided.

207 **SECTION 6.** This act shall take effect and be in force from
208 and after July 1, 2006.