

By: Representative Moak

To: Judiciary A

HOUSE BILL NO. 1222
(As Passed the House)

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; however, this term
32 does not include self-insured workers' compensation groups or
33 associations comprised of members who have joint and several
34 liability for the workers' compensation obligation of the other
35 members.

36 (f) "Intangible personal property" includes, but is not
37 limited to:

38 (i) Monies, checks, drafts, deposits, interest,
39 dividends, and income;

40 (ii) Credit balances, customer overpayments, gift
41 certificates, security deposits, refunds, credit memos, unpaid
42 wages or compensation, unused airline tickets, * * * unidentified
43 remittances, and money or credits owed to a customer as a result
44 of a retail business transaction except future and prior dividends
45 made by the aforesaid workers' compensation groups or
46 associations;

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

49 (iv) Amounts due and payable under the terms of
50 insurance policies;

51 (v) Amounts distributable from a trust or
52 custodial fund established under a plan to provide health,
53 welfare, pension, vacation, severance, retirement, death, stock
54 purchase, profit sharing, employee savings, supplemental
55 unemployment insurance, or similar benefits;

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

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

59 (g) "Owner" means a depositor in case of a deposit, a
60 beneficiary in case of a trust, a creditor, claimant or payee in
61 case of other choses in action, or any person having a legal or

equitable interest in property subject to the provisions of this act, or his legal representative.

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

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

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

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

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

89-12-15. All intangible personal property not otherwise covered by the provisions of this chapter, 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 five (5) years after it became payable or distributable shall be presumed abandoned.

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

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

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

(b) No address of the apparent owner appears on the 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.

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

130 (a) Except with respect to traveler's checks and money
131 orders, the name, if known, and last known address, if any, of
132 each person appearing from the records of the holder to be the
133 owner of any property of the value of more than One Hundred
134 Dollars (\$100.00) presumed abandoned under the provisions of this
135 chapter;

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

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

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

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

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

156 (4) The report shall be filed annually through 1984, and
157 reports shall be filed every third year thereafter. The report
158 shall be filed before November 1 of each year in which a report is
159 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

193 the ordinary course of the holder's business and has remained
194 unclaimed by the owner for more than six (6) years after it became
195 payable or distributable shall be presumed abandoned.

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

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