

House Bill 490 (AS PASSED HOUSE AND SENATE)

By: Representatives Ridley of the 6<sup>th</sup>, Rhodes of the 120<sup>th</sup>, Gambill of the 15<sup>th</sup>, Petrea of the 166<sup>th</sup>, and Kelley of the 16<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 12 of Article 1 of Chapter 1 of Title 7 of the Official Code of Georgia  
2 Annotated, relating to deposits of deceased depositors, so as to make changes relating to the  
3 payment of large deposits of deceased intestate depositors and the deposit of sums held for  
4 deceased intestate residents; to provide for and revise certain definitions; to provide for an  
5 affidavit for certain claimants to deposits; to provide a statutory form for an affidavit of the  
6 providers of services of funeral expenses and expenses of last illnesses of deceased  
7 depositors; to change certain provisions relating to payment of checks or instruments payable  
8 to deceased intestate persons; to provide for related matters; to repeal conflicting laws; and for  
9 other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Part 12 of Article 1 of Chapter 1 of Title 7 of the Official Code of Georgia Annotated,  
13 relating to deposits of deceased depositors, is amended by revising Code Section 7-1-239,  
14 relating to payment of large deposits of deceased intestate depositors, deposit of sums held  
15 for deceased intestate residents, and affidavit included with application for deposit, as  
16 follows:

17 "7-1-239.

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

19 (1) 'Affidavit of the provider' means the form provided for in subsection (e) of this Code  
20 section.

21 (2) 'Financial institution' means any federally chartered financial institution or state  
22 chartered financial institution, including, but not limited to, those chartered by states  
23 other than the State of Georgia whose deposits are federally insured.

24 ~~(a)~~(b) Except as provided in subsection ~~(b)~~ (c) of this Code section and in Article 8 of this  
25 chapter, whenever any person dies intestate having a deposit of not more than ~~\$10,000.00~~  
26 \$15,000.00 in a financial institution, such financial institution, upon receipt of an affidavit,

27 shall be authorized to pay the proceeds of such deposit directly to the following persons  
 28 individuals:

- 29 (1) To the surviving spouse;  
 30 (2) If no surviving spouse, to the children pro rata;  
 31 (3) If no children or surviving spouse, to the father and mother pro rata; or  
 32 (4) If none of the above, then to the brothers and sisters of the decedent pro rata.

33 Such affidavit shall state that such individuals qualify as the proper relation to the decedent  
 34 as specified in this subsection, there is no known will of the decedent, and that there are no  
 35 other known corresponding claimant or claimants to such deposit.

36 ~~(b)~~(c) Except as provided in Article 8 of this chapter, if no application for the deposit is  
 37 made by any person named in subsection (a) ~~(b)~~ of this Code section within ~~90~~ 45 days  
 38 from the death of the intestate depositor, the financial institution shall be authorized to  
 39 apply not more than ~~\$10,000.00~~ \$15,000.00 of the deposit of such deceased depositor in  
 40 payment of the funeral expenses and expenses of the last illness of such deceased depositor  
 41 upon the receipt of itemized statements of such expenses and the affidavit of the providers  
 42 of such services that the itemized statements are true and correct and have not been paid.  
 43 The financial institution shall pay such expenses in the order received after the death of the  
 44 depositor.

45 ~~(e)~~(d) Payments pursuant to ~~subsections (a) and (b)~~ of this Code section shall operate as  
 46 a complete acquittal and discharge to the financial institution of liability from any suit,  
 47 claim, or demand of whatever nature by any heir, distributee, creditor of the decedent, or  
 48 any other person. ~~Such payment is authorized to be made as provided in this Code section~~  
 49 ~~without the necessity of administration of the estate of the decedent or without the~~  
 50 ~~necessity of obtaining an order that no administration is necessary.~~ The financial  
 51 institution may rely on a properly executed affidavit in disbursing the funds in accordance  
 52 with this Code section.

53 ~~(d) In any case in which a deceased depositor has more than \$10,000.00 on deposit in a~~  
 54 ~~financial institution, such financial institution shall be authorized to pay any amount up to~~  
 55 ~~\$10,000.00 to any of the persons authorized by this Code section to receive said deposit.~~  
 56 ~~The payment shall only act as a full and final acquittance of liability up to the amount paid~~  
 57 ~~by the financial institution and shall not act as a full and final acquittance to the financial~~  
 58 ~~institution of all liability.~~

59 ~~(e) Notwithstanding any other provisions of law to the contrary, when any person dies~~  
 60 ~~intestate as a resident of this state and any person is left in possession of moneys belonging~~  
 61 ~~to the decedent, which moneys do not exceed \$10,000.00, such person shall deposit such~~  
 62 ~~moneys into a savings account in the name of the decedent in a financial institution located~~  
 63 ~~in the area of the decedent's residence. Such account shall be managed in accordance with~~

64 ~~the signature contract in effect at the financial institution at the time the account is opened.~~  
65 ~~Any financial institution receiving such deposits is authorized to pay the proceeds in~~  
66 ~~accordance with subsections (a), (b), (c), and (d) of this Code section.~~

67 ~~(f) As used in this Code section, the term 'financial institution' includes any federally~~  
68 ~~chartered financial institution.~~

69 ~~(g) Application by any claimant or claimants entitled in this Code section to receive~~  
70 ~~deposits at a financial institution shall include an affidavit by the claimant or claimants~~  
71 ~~which states that they qualify as the proper relation to the decedent as specified in this~~  
72 ~~Code section and that the claimant or claimants know of no other corresponding claimant~~  
73 ~~or claimants to such deposit. The financial institution may rely on a properly executed~~  
74 ~~affidavit in disbursing the funds according to this Code section.~~

75 (e) A document substantially in the following form shall be used as the affidavit of the  
76 providers of services of funeral expenses and expenses of last illnesses of deceased  
77 depositors:

78 'State of Georgia County of \_\_\_\_\_

79 STATUTORY AFFIDAVIT FORM

80 \_\_\_\_\_ from \_\_\_\_\_ attests that  
81 (Claimant) (Facility)  
82 \_\_\_\_\_ died on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
83 (Deceased)

84 On information and belief, the Deceased has funds on deposit with \_\_\_\_\_.  
85 (Financial Institution)

86 Under O.C.G.A. § 7-1-239, such Financial Institution is authorized to pay the proceeds  
87 of the Deceased's deposits, but in no event more than \$15,000.00, directly to the  
88 following persons identified, collectively, as potential recipient(s):

- 89 1. To the surviving spouse;
- 90 2. If no surviving spouse, to the children pro rata;
- 91 3. If no children or surviving spouse, to the father and mother pro rata; or
- 92 4. If none of the above, then to the brothers and sisters of the decedent pro rata.

93 Except as provided for by Article 8 in Title 7 of the O.C.G.A., if no request for the  
94 Deceased's deposit is made by a potential recipient(s) within 45 days from the  
95 Deceased's death, the Financial Institution is authorized to release up to \$15,000.00 for

96 funeral expenses and expenses of the last illness of the Deceased upon the receipt of  
 97 itemized statements of such expenses and this executed attestation.  
 98 The Claimant attests that there is no known will of the Deceased and there is no known  
 99 potential recipient of the Deceased's deposits. The Claimant also attests that funeral  
 100 expenses or expenses of the last illness in the amount of \$ \_\_\_\_\_ were incurred  
 101 related to the Deceased and that true and correct copies of the itemized receipts fully  
 102 supporting such amount are attached to this affidavit. Finally, the Claimant further  
 103 attests that such expenses have not been paid as of the date of execution of this  
 104 affidavit.  
 105 Pursuant to O.C.G.A. § 7-1-239, the Claimant submits this form in order to receive  
 106 payment in the amount of \$ \_\_\_\_\_ (shall not exceed \$15,000.00) for outstanding  
 107 funeral expenses or expenses of the last illness of the Deceased.

108 \_\_\_\_\_  
 109 Signature of Claimant

110 Sworn and subscribed  
 111 before me this \_\_\_\_\_ day  
 112 of \_\_\_\_\_, 20\_\_.

113 \_\_\_\_\_  
 114 Notary public (SEAL)  
 115 My commission expires: \_\_\_\_\_."

116 **SECTION 2.**

117 Said part is further amended by revising subsection (a) of Code Section 7-1-239.1, relating  
 118 to payment of checks or instruments payable to deceased intestate persons and affidavit  
 119 included with application for payment, as follows:

120 "(a) Whenever any person dies intestate having possession of or a right to possession of  
 121 a check or other instrument payable to such deceased person and the amount of the check  
 122 or instrument does not exceed ~~\$10,000.00~~ \$15,000.00, the financial institution on which  
 123 the check or instrument is drawn shall be authorized to accept and redeem the check or  
 124 instrument by payment to the following persons:

- 125 (1) To the surviving spouse;
- 126 (2) If no surviving spouse, to the children pro rata;
- 127 (3) If no children or surviving spouse, to the father and mother pro rata; or
- 128 (4) If none of the above, then to the brothers and sisters of the decedent pro rata."

129

**SECTION 3.**

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