

(i) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph:

1. in the order in which they were placed into escrow; and
2. only to the extent and at the time necessary to make payments required under such judgment or settlement; or

(ii) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow ON ACCOUNT OF UNITS SOLD IN THE STATE in a particular year was greater than [the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the inflation adjustment)] THE MASTER SETTLEMENT AGREEMENT PAYMENTS, AS DETERMINED PURSUANT TO SECTION IX(I) OF THAT AGREEMENT, INCLUDING AFTER FINAL DETERMINATION OF ALL ADJUSTMENTS, THAT SUCH MANUFACTURER WOULD HAVE BEEN REQUIRED TO MAKE ON ACCOUNT OF SUCH UNITS SOLD had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco manufacturer; or

(iii) to the extent funds are not released from escrow under subparagraph (i) or (ii) of paragraph (2) of this subsection, funds shall be released from escrow and revert to such tobacco product manufacturer 25 years after the date on which they were placed into escrow.

~~SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable. Furthermore, if any provision of this Act or the application thereof to any person or circumstance places the State out of compliance with the Master Settlement Agreement or adversely impacts the State's payments under the Master Settlement Agreement, this Act shall be abrogated and of no further force and effect.~~

SECTION 2. AND BE IT FURTHER ENACTED, That if this Act, or any portion of the amendment to 3(b)(2)(i) of Section 1 of Chapter 169 of the Acts of the General Assembly of 1999, as amended by Chapter 141 of the Acts of the General Assembly of 2001, made by this Act, is held by a court of competent jurisdiction to be unconstitutional, then such 3(b)(2)(i) of Section 1 shall be deemed to be repealed in its entirety. If 3(b)(2) of Section 1 of Chapter 169 of the Acts of the General Assembly of 1999, as amended by Chapter 141 of the Acts of the General Assembly of 2001, shall thereafter be held by a court of competent jurisdiction to be unconstitutional, then this Act shall be deemed repealed, and 3(b)(2)(ii) of Section 1 of Chapter 169 of the Acts of the General Assembly of 1999, as amended by Chapter 141 of the Acts of the General Assembly of 2001, be restored as if no such amendments had been made.