



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2901

Introduced 2/14/2018, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

See Index

Amends the Revised Uniform Unclaimed Property Act. Provides that certain property is presumed abandoned after 5 (instead of 3) years. Provides that any property due or owed by a business association to or for the benefit of another business association resulting from a transaction occurring in the normal and ordinary course of business is exempt from the Act. Provides that an action or proceeding may not be maintained by the State Treasurer ("administrator") to enforce the Act in regard to the reporting, delivery, or payment of property more than 5 years after the holder filed a non-fraudulent report with the administrator (instead of 10 after the holder specifically identified the property in a report filed with the administrator or gave express notice to the administrator of a dispute regarding the property). Deletes language providing that in the absence of a report or other express notice, the period of limitation is tolled, and that the period of limitation is also tolled by the filing of a report that is fraudulent. Provides instead that the parties may agree to extend the limitation period. Provides that the administrator may not commence an action, proceeding, or examination with respect to a duty of a holder under the Act more than 10 years after the duty arose. Provides that in the absence of certain records the administrator may use specified estimation techniques. Provides that within 60 business days of the receipt of a final examination report, a holder may request a hearing to contest the use or validity of estimation techniques. Deletes provisions concerning the administrator's authority to contract with another to conduct an examination. Provides instead that the administrator may not enter into a contract with a person to conduct an examination of a holder under which the administrator agrees to pay the person a fee based upon a percentage of the property recovered for this State. Deletes language providing that an initial report filed under the Act for property that was not required to be reported before the effective date of the Act, but that is required to be reported under the Act, must include all items of property that would have been presumed abandoned during the 5-year period preceding the effective date of the Act as if the Act had been in effect during that period. Effective immediately.

LRB100 18358 HEP 33565 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Revised Uniform Unclaimed Property Act is
5 amended by changing Sections 15-201, 15-610, 15-1006, 15-1009,
6 and 15-1503 as follows:

7 (765 ILCS 1026/15-201)

8 Sec. 15-201. When property presumed abandoned.

9 (a) Subject to Section 15-210, the following property is
10 presumed abandoned if it is unclaimed by the apparent owner
11 during the period specified below:

12 (1) a traveler's check, 15 years after issuance;

13 (2) a money order, 7 years after issuance;

14 (3) any instrument on which a financial organization or
15 business association is directly liable, 5 ~~3~~ years after
16 issuance;

17 (4) a state or municipal bond, bearer bond, or
18 original-issue-discount bond, 5 ~~3~~ years after the earliest
19 of the date the bond matures or is called or the obligation
20 to pay the principal of the bond arises;

21 (5) a debt of a business association, 5 ~~3~~ years after
22 the obligation to pay arises;

23 (6) a demand, savings, or time deposit, 5 ~~3~~ years after

1 the later of maturity or the date of the last indication of
2 interest in the property by the apparent owner, except for
3 a deposit that is automatically renewable, 5 ~~3~~ years after
4 its initial date of maturity unless the apparent owner
5 consented in a record on file with the holder to renewal at
6 or about the time of the renewal;

7 (7) money or a credit owed to a customer as a result of
8 a retail business transaction, other than in-store credit
9 for returned merchandise, 5 ~~3~~ years after the obligation
10 arose;

11 (8) an amount owed by an insurance company on a life or
12 endowment insurance policy or an annuity contract that has
13 matured or terminated, 5 ~~3~~ years after the obligation to
14 pay arose under the terms of the policy or contract or, if
15 a policy or contract for which an amount is owed on proof
16 of death has not matured by proof of the death of the
17 insured or annuitant, as follows:

18 (A) with respect to an amount owed on a life or
19 endowment insurance policy, the earlier of:

20 (i) 5 ~~3~~ years after the death of the insured;

21 or

22 (ii) 2 years after the insured has attained, or
23 would have attained if living, the limiting age
24 under the mortality table on which the reserve for
25 the policy is based; and

26 (B) with respect to an amount owed on an annuity

1 contract, 5 ~~3~~ years after the death of the annuitant.

2 (9) funds on deposit or held in trust pursuant to the
3 Illinois Funeral or Burial Funds Act, the earliest of:

4 (A) 2 years after the date of death of the
5 beneficiary;

6 (B) one year after the date the beneficiary has
7 attained, or would have attained if living, the age of
8 105 where the holder does not know whether the
9 beneficiary is deceased;

10 (C) 40 years after the contract for prepayment was
11 executed;

12 (10) property distributable by a business association
13 in the course of dissolution or distributions from the
14 termination of a retirement plan, one year after the
15 property becomes distributable;

16 (11) property held by a court, including property
17 received as proceeds of a class action, 5 ~~3~~ years after the
18 property becomes distributable;

19 (12) property held by a government or governmental
20 subdivision, agency, or instrumentality, including
21 municipal bond interest and unredeemed principal under the
22 administration of a paying agent or indenture trustee, 5 ~~3~~
23 years after the property becomes distributable;

24 (13) wages, commissions, bonuses, or reimbursements to
25 which an employee is entitled, or other compensation for
26 personal services, including amounts held on a payroll

1 card, one year after the amount becomes payable;

2 (14) a deposit or refund owed to a subscriber by a
3 utility, one year after the deposit or refund becomes
4 payable, except that any capital credits or patronage
5 capital retired, returned, refunded or tendered to a member
6 of an electric cooperative, as defined in Section 3.4 of
7 the Electric Supplier Act, or a telephone or
8 telecommunications cooperative, as defined in Section
9 13-212 of the Public Utilities Act, that has remained
10 unclaimed by the person appearing on the records of the
11 entitled cooperative for more than 2 years, shall not be
12 subject to, or governed by, any other provisions of this
13 Act, but rather shall be used by the cooperative for the
14 benefit of the general membership of the cooperative; and

15 (15) property not specified in this Section or Sections
16 15-202 through 15-208, the earlier of 5 ~~3~~ years after the
17 owner first has a right to demand the property or the
18 obligation to pay or distribute the property arises.

19 (b) Notwithstanding anything to the contrary in this
20 Section 15-201, and subject to Section 15-210, a deceased owner
21 cannot indicate interest in his or her property. If the owner
22 is deceased and the abandonment period for the owner's property
23 specified in this Section 15-201 is greater than 2 years, then
24 the property, other than an amount owed by an insurance company
25 on a life or endowment insurance policy or an annuity contract
26 that has matured or terminated, shall instead be presumed

1 abandoned 2 years from the date of the owner's last indication
2 of interest in the property.

3 (c) Notwithstanding anything to the contrary in this
4 Section, any property due or owed by a business association to
5 or for the benefit of another business association resulting
6 from a transaction occurring in the normal and ordinary course
7 of business is exempt from this Act.

8 (Source: P.A. 100-22, eff. 1-1-18; 100-566, eff. 1-1-18.)

9 (765 ILCS 1026/15-610)

10 Sec. 15-610. Periods of limitation and repose.

11 (a) Expiration, before, on, or after the effective date of
12 this Act, of a period of limitation on an owner's right to
13 receive or recover property, whether specified by contract,
14 statute, or court order, does not prevent the property from
15 being presumed abandoned or affect the duty of a holder under
16 this Act to file a report or pay or deliver property to the
17 administrator.

18 (b) An action or proceeding may not be maintained by the
19 administrator to enforce this Act in regard to the reporting,
20 delivery, or payment of property more than 5 ~~10~~ years after the
21 holder filed a non-fraudulent report with the administrator.
22 The parties may agree to extend the limitation period in this
23 subsection ~~specifically identified the property in a report~~
24 ~~filed with the administrator or gave express notice to the~~
25 ~~administrator of a dispute regarding the property. In the~~

1 ~~absence of such a report or other express notice, the period of~~
2 ~~limitation is tolled. The period of limitation is also tolled~~
3 ~~by the filing of a report that is fraudulent.~~

4 (c) The administrator may not commence an action,
5 proceeding, or examination with respect to a duty of a holder
6 under this Act more than 10 years after the duty arose.

7 (Source: P.A. 100-22, eff. 1-1-18.)

8 (765 ILCS 1026/15-1006)

9 Sec. 15-1006. Failure of person examined to retain records.

10 (a) If a person subject to examination under Section
11 15-1002 ~~has failed to~~ ~~does not~~ retain the records required by
12 Section 15-404, the administrator may use estimation
13 techniques that conform to either generally accepted auditing
14 standards or generally accepted accounting principles to
15 determine the amount of unclaimed property. In the conduct of
16 an examination, the State shall not request of a holder any
17 records that relate to property that is not subject to this
18 Act. Estimation techniques used shall incorporate a "net"
19 method to extrapolation, meaning the numerator shall consist of
20 only property located in Illinois or Illinois-sourced property
21 and the denominator shall be a reasonable surrogate, such as
22 sales or payroll ~~determine the value of property due using a~~
23 reasonable method of estimation based on all information
24 available to the administrator, including extrapolation and
25 use of statistical sampling when appropriate and necessary,

1 ~~consistent with examination procedures and standards adopted~~
2 ~~under Section 15-1003. A payment made based on estimation under~~
3 ~~this Section is a penalty for failure to maintain the records~~
4 ~~required by Section 15-404 and does not relieve a person from~~
5 ~~an obligation to report and deliver property to a State in~~
6 ~~which the holder is domiciled.~~

7 (b) Within 60 business days of the receipt of a final
8 examination report, a holder may request a hearing to contest
9 the use or validity of estimation techniques. The examination
10 shall become final upon the failure of the holder to request a
11 hearing as provided in this Section. If a hearing is held, the
12 State Treasurer shall issue an order approving or disapproving
13 the use or validity of the estimation techniques. The order
14 shall be a final order under the Administrative Review Law.

15 (Source: P.A. 100-22, eff. 1-1-18.)

16 (765 ILCS 1026/15-1009)

17 Sec. 15-1009. Administrator's contract with another to
18 conduct examination. The administrator may not enter into a
19 contract with a person to conduct an examination of a holder
20 under which the administrator agrees to pay the person a fee
21 based upon a percentage of the property recovered for this
22 State.

23 ~~(a) The administrator may contract with a person to conduct~~
24 ~~an examination under this Article. The contract shall be~~
25 ~~awarded pursuant to a request for proposals issued in~~

1 ~~compliance with the procurement rules of the administrator.~~

2 ~~(b) If the administrator contracts with a person under~~
3 ~~subsection (a):~~

4 ~~(1) the contract may provide for compensation of the~~
5 ~~person based on a fixed fee, hourly fee, or contingent fee;~~

6 ~~(2) a contingent fee arrangement may not provide for a~~
7 ~~payment that exceeds 15% of the amount or value of property~~
8 ~~paid or delivered as a result of the examination; and~~

9 ~~(3) as authorized in the State Officers and Employees~~
10 ~~Money Disposition Act, the administrator may permit the~~
11 ~~deduction of fees from property recovered during an~~
12 ~~examination under this Article prior to depositing funds~~
13 ~~received under this Act into the Unclaimed Property Trust~~
14 ~~Fund.~~

15 ~~(c) A contract under subsection (a) is a public record~~
16 ~~under the Freedom of Information Act.~~

17 (Source: P.A. 100-22, eff. 1-1-18.)

18 (765 ILCS 1026/15-1503)

19 Sec. 15-1503. Transitional provision.

20 ~~(a) An initial report filed under this Act for property~~
21 ~~that was not required to be reported before the effective date~~
22 ~~of this Act, but that is required to be reported under this~~
23 ~~Act, must include all items of property that would have been~~
24 ~~presumed abandoned during the 5-year period preceding the~~
25 ~~effective date of this Act as if this Act had been in effect~~

1 ~~during that period.~~

2 ~~(b)~~ This Act does not relieve a holder of a duty that arose
3 before the effective date of this Act to report, pay, or
4 deliver property. A ~~Subject to subsection (b) of Section~~
5 ~~15-610,~~ a holder that did not comply with the law governing
6 unclaimed property before the effective date of this Act is
7 subject to applicable provisions for enforcement and penalties
8 in effect before the effective date of this Act.

9 (Source: P.A. 100-22, eff. 1-1-18.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 765 ILCS 1026/15-201

4 765 ILCS 1026/15-610

5 765 ILCS 1026/15-1006

6 765 ILCS 1026/15-1009

7 765 ILCS 1026/15-1503