

100TH GENERAL ASSEMBLY**State of Illinois****2017 and 2018****SB3229**

Introduced 2/15/2018, by Sen. Don Harmon

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 compensation held on a payroll card is reportable 5 years after the date of the last indication of interest in the property by the apparent owner. Provides that for purposes of determining certain duties of a reporting institution, a recurring Automated Clearing House (ACH) debit or credit previously authorized by the apparent owner constitutes a deposit or withdrawal by the apparent owner. Deletes language requiring a holder to inform the administrator of the extended date on a certain reported renewable time deposit. Deletes language requiring the administrator to pay interest at the percentage increase, if any, in the Consumer Price Index for All Urban Consumers for all items published by the United States Department of Labor (CPI-U), if lower than the rate the property earned while in the possession of the holder and reported to the administrator. Provides that the administrator may not commence an action or proceeding with respect to a duty of a holder under the Act more than 5 years after the duty arose. Deletes language tolling the period under certain circumstances. Provides that examinations of State-regulated financial organizations shall occur at reasonable times and upon reasonable notice if the State Treasurer has reason to believe that a financial organization has failed to report property and provides that records obtained in such examinations are subject to the same provisions concerning use and confidentiality as records obtained in examinations of other persons. Provides that if the administrator enters into a contract with a person to conduct an examination of a financial organization, the compensation shall be based upon a fixed fee or hourly fee (instead of fixed fee, hourly fee, or contingent fee). 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 20018 HEP 35300 b

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, 15-210, 15-603, 15-607,
6 15-610, 15-1002.1, 15-1004, 15-1009, 15-1401, 15-1402, and
7 15-1503 as follows:

8 (765 ILCS 1026/15-201)

9 Sec. 15-201. When property presumed abandoned. Subject to
10 Section 15-210, the following property is presumed abandoned if
11 it is unclaimed by the apparent owner during the period
12 specified below:

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

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

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

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

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

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

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

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

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

22 (i) 3 years after the death of the insured; or

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

1 (B) with respect to an amount owed on an annuity
2 contract, 3 years after the death of the annuitant.

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

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

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

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

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

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

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

25 (13) wages, commissions, bonuses, or reimbursements to
26 which an employee is entitled, or other compensation for

1 personal services: ~~, including amounts held on a payroll~~
2 ~~card, one year after the amount becomes payable;~~

3 (A) not held on a payroll card, one year after the
4 amount becomes payable; or

5 (B) held on a payroll card, 5 years after the date
6 of the last indication of interest in the property by
7 the apparent owner;

8 (14) a deposit or refund owed to a subscriber by a
9 utility, one year after the deposit or refund becomes
10 payable, except that any capital credits or patronage
11 capital retired, returned, refunded or tendered to a member
12 of an electric cooperative, as defined in Section 3.4 of
13 the Electric Supplier Act, or a telephone or
14 telecommunications cooperative, as defined in Section
15 13-212 of the Public Utilities Act, that has remained
16 unclaimed by the person appearing on the records of the
17 entitled cooperative for more than 2 years, shall not be
18 subject to, or governed by, any other provisions of this
19 Act, but rather shall be used by the cooperative for the
20 benefit of the general membership of the cooperative; and

21 (15) property not specified in this Section or Sections
22 15-202 through 15-208, the earlier of 3 years after the
23 owner first has a right to demand the property or the
24 obligation to pay or distribute the property arises.

25 Notwithstanding anything to the contrary in this Section
26 15-201, and subject to Section 15-210, a deceased owner cannot

1 indicate interest in his or her property. If the owner is
2 deceased and the abandonment period for the owner's property
3 specified in this Section 15-201 is greater than 2 years, then
4 the property, other than an amount owed by an insurance company
5 on a life or endowment insurance policy or an annuity contract
6 that has matured or terminated, shall instead be presumed
7 abandoned 2 years from the date of the owner's last indication
8 of interest in the property.

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

10 (765 ILCS 1026/15-210)

11 Sec. 15-210. Indication of apparent owner interest in
12 property.

13 (a) The period after which property is presumed abandoned
14 is measured from the later of:

15 (1) the date the property is presumed abandoned under
16 this Article; or

17 (2) the latest indication of interest by the apparent
18 owner in the property.

19 (b) Under this Act, an indication of an apparent owner's
20 interest in property includes:

21 (1) a record communicated by the apparent owner to the
22 holder or agent of the holder concerning the property or
23 the account in which the property is held;

24 (2) an oral communication by the apparent owner to the
25 holder or agent of the holder concerning the property or

1 the account in which the property is held, if the holder or
2 its agent contemporaneously makes and preserves a record of
3 the fact of the apparent owner's communication;

4 (3) presentment of a check or other instrument of
5 payment of a dividend, interest payment, or other
6 distribution, or evidence of receipt of a distribution made
7 by electronic or similar means, with respect to an account,
8 underlying security, or interest in a business
9 association;

10 (4) activity directed by an apparent owner in the
11 account in which the property is held, including accessing
12 the account or information concerning the account, or a
13 direction by the apparent owner to increase, decrease, or
14 otherwise change the amount or type of property held in the
15 account;

16 (5) a deposit into or withdrawal from an account at a
17 financial organization, except for ~~a recurring Automated~~
18 ~~Clearing House (ACH) debit or credit previously authorized~~
19 ~~by the apparent owner or~~ an automatic reinvestment of
20 dividends or interest; and

21 (6) subject to subsection (e), payment of a premium on
22 an insurance policy.

23 (c) An action by an agent or other representative of an
24 apparent owner, other than the holder acting as the apparent
25 owner's agent, is presumed to be an action on behalf of the
26 apparent owner.

1 (d) A communication with an apparent owner by a person
2 other than the holder or the holder's representative is not an
3 indication of interest in the property by the apparent owner
4 unless a record of the communication evidences the apparent
5 owner's knowledge of a right to the property.

6 (e) If the insured dies or the insured or beneficiary of an
7 insurance policy otherwise becomes entitled to the proceeds
8 before depletion of the cash surrender value of the policy by
9 operation of an automatic-premium-loan provision or other
10 nonforfeiture provision contained in the policy, the operation
11 does not prevent the policy from maturing or terminating.

12 (f) If the apparent owner has another property with the
13 holder to which Section 201(6) applies, then activity directed
14 by an apparent owner in any other accounts, including loan
15 accounts, at a financial organization holding an inactive
16 account of the apparent owner shall be an indication of
17 interest in all such accounts if:

18 (A) the apparent owner engages in one or more of
19 the following activities:

20 (i) the apparent owner undertakes one or more
21 of the actions described in subsection (b) of this
22 Section regarding any account that appears on a
23 consolidated statement with the inactive account;

24 (ii) the apparent owner increases or decreases
25 the amount of funds in any other account the
26 apparent owner has with the financial

1 organization; or

2 (iii) the apparent owner engages in any other
3 relationship with the financial organization,
4 including payment of any amounts due on a loan; and

5 (B) the foregoing apply so long as the mailing
6 address for the apparent owner in the financial
7 organization's books and records is the same for both
8 the inactive account and the active account.

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

10 (765 ILCS 1026/15-603)

11 Sec. 15-603. Payment or delivery of property to
12 administrator.

13 (a) Except as otherwise provided in this Section, on filing
14 a report under Section 15-401, the holder shall pay or deliver
15 to the administrator the property described in the report.

16 (b) If property in a report under Section 15-401 is an
17 automatically renewable time deposit and a penalty or
18 forfeiture in the payment of interest would result from paying
19 the deposit to the administrator at the time of the report, the
20 date for payment of the property to the administrator is
21 extended until a penalty or forfeiture no longer would result
22 from payment, ~~if the holder informs the administrator of the~~
23 ~~extended date.~~

24 (c) Tangible property in a safe-deposit box may not be
25 delivered to the administrator until a mutually agreed upon

1 date that is no sooner than 60 days after filing the report
2 under Section 15-401.

3 (d) If property reported to the administrator under Section
4 15-401 is a security, the administrator may:

5 (1) make an endorsement, instruction, or entitlement
6 order on behalf of the apparent owner to invoke the duty of
7 the issuer, its transfer agent, or the securities
8 intermediary to transfer the security; or

9 (2) dispose of the security under Section 15-702.

10 (e) If the holder of property reported to the administrator
11 under Section 15-401 is the issuer of a certificated security,
12 the administrator may obtain a replacement certificate in
13 physical or book-entry form under Section 8-405 of the Uniform
14 Commercial Code. An indemnity bond is not required.

15 (f) The administrator shall establish procedures for the
16 registration, issuance, method of delivery, transfer, and
17 maintenance of securities delivered to the administrator by a
18 holder.

19 (g) An issuer, holder, and transfer agent or other person
20 acting in good faith under this Section under instructions of
21 and on behalf of the issuer or holder is not liable to the
22 apparent owner for a claim arising with respect to property
23 after the property has been delivered to the administrator.

24 (h) A holder is not required to deliver to the
25 administrator a security identified by the holder as a
26 non-freely transferable security in a report filed under

1 Section 15-401. If the administrator or holder determines that
2 a security is no longer a non-freely transferable security, the
3 holder shall report and deliver the security on the next
4 regular date prescribed for delivery of securities under this
5 Act. The holder shall make a determination annually whether a
6 security identified in a report filed under Section 15-401 as a
7 non-freely transferable security is no longer a non-freely
8 transferable security.

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

10 (765 ILCS 1026/15-607)

11 Sec. 15-607. Crediting income or gain to owner's account.

12 (a) If property other than money is delivered to the
13 administrator, the owner is entitled to receive from the
14 administrator income or gain realized or accrued on the
15 property before the property is sold.

16 (b) Except as provided in subsection (c), interest on money
17 is not payable to an owner for periods where the property is in
18 the possession of the administrator.

19 (c) If an interest-bearing demand, savings, or time deposit
20 is paid or delivered to the administrator on or after July 1,
21 2018, then the administrator shall pay interest to the owner at
22 ~~the lesser of: (i) the percentage increase, if any, in the~~
23 ~~Consumer Price Index for All Urban Consumers for all items~~
24 ~~published by the United States Department of Labor (CPI-U); or~~
25 ~~(ii) the rate the property earned while in the possession of~~

1 the holder and reported to the administrator. Interest begins
2 to accrue when the property is delivered to the administrator
3 and ends on the earlier of the expiration of 10 years after its
4 delivery or the date on which payment is made to the owner. The
5 administrator may establish by administrative rule more
6 detailed methodologies for calculating the amount of interest
7 to be paid to an owner under this Section using CPI-U or the
8 rate the property earned while in the possession of the holder.
9 (Source: P.A. 100-22, eff. 1-1-18; 100-566, eff. 1-1-18.)

10 (765 ILCS 1026/15-610)

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

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

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

1 ~~limitation is tolled. The period of limitation is also tolled~~
2 ~~by the filing of a report that is fraudulent.~~

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

4 (765 ILCS 1026/15-1002.1)

5 Sec. 15-1002.1. Examination of State-regulated financial
6 organizations.

7 (a) Notwithstanding Section 15-1002 of this Act, for any
8 financial organization for which the Department of Financial
9 and Professional Regulation is the primary prudential
10 regulator, the administrator shall not examine such financial
11 institution unless the administrator has consulted with the
12 Secretary of Financial and Professional Regulation and the
13 Department of Financial and Professional Regulation has not
14 examined such financial organization for compliance with this
15 Act within the past 5 years. The Secretary of Financial and
16 Professional Regulation may waive in writing the provisions of
17 this subsection (a) in order to permit the administrator to
18 examine a financial organization or group of financial
19 organizations for compliance with this Act.

20 (b) Nothing in this Section shall be construed to prohibit
21 the administrator from examining a financial organization for
22 which the Department of Financial and Professional Regulation
23 is not the primary prudential regulator. Further, nothing in
24 this Act shall be construed to limit the authority of the
25 Department of Financial and Professional Regulation to examine

1 financial organizations.

2 (c) Examinations authorized by this Section shall occur at
3 reasonable times and upon reasonable notice if the State
4 Treasurer has reason to believe that a financial organization
5 has failed to report property that should have been reported
6 pursuant to this Act.

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

8 (765 ILCS 1026/15-1004)

9 Sec. 15-1004. Records obtained in examination. Records
10 obtained and records, including work papers, compiled by the
11 administrator or administrator's agent in the course of
12 conducting an examination under Section 15-1002 or Section
13 15-1002.1:

14 (1) are subject to the confidentiality and security
15 provisions of Article 14 and are exempt from disclosure
16 under the Freedom of Information Act;

17 (2) may be used by the administrator in an action to
18 collect property or otherwise enforce this Act;

19 (3) may be used in a joint examination conducted with
20 another state, the United States, a foreign country or
21 subordinate unit of a foreign country, or any other
22 governmental entity if the governmental entity conducting
23 the examination is legally bound to maintain the
24 confidentiality and security of information obtained from
25 a person subject to examination in a manner substantially

1 equivalent to Article 14;

2 (4) may be disclosed, on request, to the person that
3 administers the unclaimed property law of another state for
4 that state's use in circumstances equivalent to
5 circumstances described in this Article, if the other state
6 is required to maintain the confidentiality and security of
7 information obtained in a manner substantially equivalent
8 to Article 14;

9 (5) must be produced by the administrator under an
10 administrative or judicial subpoena or administrative or
11 court order; and

12 (6) must be produced by the administrator on request of
13 the person subject to the examination in an administrative
14 or judicial proceeding relating to the property.

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.

19 (a) The administrator may contract with a person to conduct
20 an examination under this Article. The contract shall be
21 awarded pursuant to a request for proposals issued in
22 compliance with the procurement rules of the administrator.

23 (b) If the administrator contracts with a person under
24 subsection (a):

25 (1) the contract may provide for compensation of the

1 person based on a fixed fee, hourly fee, or contingent fee,
2 except that with respect to the examination of a financial
3 organization, the compensation shall be based upon a fixed
4 fee or hourly fee;

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

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

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

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

17 (765 ILCS 1026/15-1401)

18 Sec. 15-1401. Confidential information.

19 (a) Except as otherwise provided in this Section,
20 information that is confidential under law of this State other
21 than this Act, another state, or the United States, including
22 "private information" as defined in the Freedom of Information
23 Act and "personal information" as defined in the Personal
24 Information Protection Act, continues to be confidential when
25 disclosed or delivered under this Act to the administrator or

1 administrator's agent.

2 (b) Information provided in reports filed pursuant to
3 Section 15-401, information obtained in the course of an
4 examination pursuant to Section 15-1002 or Section 15-1002.1,
5 and the database required by Section 15-503 is exempt from
6 disclosure under the Freedom of Information Act.

7 (c) If reasonably necessary to enforce or implement this
8 Act, the administrator or the administrator's agent may
9 disclose confidential information concerning property held by
10 the administrator or the administrator's agent to:

11 (1) an apparent owner or the apparent owner's
12 representative under the Probate Act of 1975, attorney,
13 other legal representative, or relative;

14 (2) the representative under the Probate Act of 1975,
15 other legal representative, relative of a deceased
16 apparent owner, or a person entitled to inherit from the
17 deceased apparent owner;

18 (3) another department or agency of this State or the
19 United States;

20 (4) the person that administers the unclaimed property
21 law of another state, if the other state accords
22 substantially reciprocal privileges to the administrator
23 of this State if the other state is required to maintain
24 the confidentiality and security of information obtained
25 in a manner substantially equivalent to Article 14;

26 (5) a person subject to an examination as required by

1 Section 15-1004; and

2 (6) an agent of the administrator.

3 (d) The administrator may include on the website or in the
4 database the names and addresses of apparent owners of property
5 held by the administrator as provided in Section 15-503. The
6 administrator may include in published notices, printed
7 publications, telecommunications, the Internet, or other media
8 and on the website or in the database additional information
9 concerning the apparent owner's property if the administrator
10 believes the information will assist in identifying and
11 returning property to the owner and does not disclose personal
12 information as defined in the Personal Information Protection
13 Act.

14 (e) The administrator and the administrator's agent may not
15 use confidential information provided to them or in their
16 possession except as expressly authorized by this Act or
17 required by law other than this Act.

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

19 (765 ILCS 1026/15-1402)

20 Sec. 15-1402. Confidentiality agreement. A person to be
21 examined under Section 15-1002 or Section 15-1002.1 may
22 require, as a condition of disclosure of the records of the
23 person to be examined, that the administrator or the
24 administrator's agent execute and deliver to the person to be
25 examined a confidentiality agreement that:

1 (1) is in a form that is reasonably satisfactory to the
2 administrator; and

3 (2) requires the person having access to the records to
4 comply with the provisions of this Article applicable to
5 the person.

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

7 (765 ILCS 1026/15-1503)

8 Sec. 15-1503. Transitional provision.

9 (a) (Blank). ~~An initial report filed under this Act for~~
10 ~~property that was not required to be reported before the~~
11 ~~effective date of this Act, but that is required to be reported~~
12 ~~under this Act, must include all items of property that would~~
13 ~~have been presumed abandoned during the 5-year period preceding~~
14 ~~the effective date of this Act as if this Act had been in~~
15 ~~effect during that period.~~

16 (b) This Act does not relieve a holder of a duty that arose
17 before the effective date of this Act to report, pay, or
18 deliver property. Subject to subsection (b) of Section 15-610,
19 a holder that did not comply with the law governing unclaimed
20 property before the effective date of this Act is subject to
21 applicable provisions for enforcement and penalties in effect
22 before the effective date of this Act.

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

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 765 ILCS 1026/15-201

4 765 ILCS 1026/15-210

5 765 ILCS 1026/15-603

6 765 ILCS 1026/15-607

7 765 ILCS 1026/15-610

8 765 ILCS 1026/15-1002.1

9 765 ILCS 1026/15-1004

10 765 ILCS 1026/15-1009

11 765 ILCS 1026/15-1401

12 765 ILCS 1026/15-1402

13 765 ILCS 1026/15-1503