



Rep. Harry Osterman

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09500HB5373ham003

LRB095 18856 AJO 50565 a

1 AMENDMENT TO HOUSE BILL 5373

2 AMENDMENT NO. _____. Amend House Bill 5373 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Uniform Disposition of Unclaimed Property
5 Act is amended by changing Section 20 as follows:

6 (765 ILCS 1025/20) (from Ch. 141, par. 120)

7 Sec. 20. Determination of claims.

8 (a) The State Treasurer shall consider any claim filed
9 under this Act and may, in his discretion, hold a hearing and
10 receive evidence concerning it. Such hearing shall be conducted
11 by the State Treasurer or by a hearing officer designated by
12 him. No hearings shall be held if the payment of the claim is
13 ordered by a court, if the claimant is under court
14 jurisdiction, or if the claim is paid under Article XXV of the
15 Probate Act of 1975. The State Treasurer or hearing officer
16 shall prepare a finding and a decision in writing on each

1 hearing, stating the substance of any evidence heard by him,
2 his findings of fact in respect thereto, and the reasons for
3 his decision. The State Treasurer shall review the findings and
4 decision of each hearing conducted by a hearing officer and
5 issue a final written decision. The final decision shall be a
6 public record. Any claim of an interest in property that is
7 filed pursuant to this Act shall be considered and a finding
8 and decision shall be issued by the Office of the State
9 Treasurer in a timely and expeditious manner.

10 (b) If the claim is allowed, and after deducting an amount
11 not to exceed \$20 to cover the cost of notice publication and
12 related clerical expenses, the State Treasurer shall make
13 payment forthwith.

14 (c) In order to carry out the purpose of this Act, no
15 person or company shall be entitled to a fee for discovering
16 presumptively abandoned property until it has been in the
17 custody of the Unclaimed Property Division of the Office of the
18 State Treasurer for at least 24 months. Fees for discovering
19 property that has been in the custody of that division for more
20 than 24 months shall be limited to not more than 10% of the
21 amount collected.

22 (d) A person or company attempting to collect a contingent
23 fee for discovering, on behalf of an owner, presumptively
24 abandoned property must be licensed as a private detective
25 pursuant to the Private Detective, Private Alarm, Private
26 Security, Fingerprint Vendor, and Locksmith Act of 2004.

1 (e) This Section shall not apply to the fees of an attorney
2 at law duly appointed to practice in a state of the United
3 States who is employed by a claimant with regard to probate
4 matters on a contractual basis.

5 (f) Any person or company offering to identify, discover,
6 or collect presumptively abandoned property or property which
7 may become presumptively abandoned on behalf of the putative
8 owner of such property in exchange for a fee, must provide the
9 owner with a written disclosure. The disclosure shall be set
10 forth in a clear and conspicuous manner and at a minimum shall
11 state the following:

12 Each state maintains an office of unclaimed property.
13 Generally, if for a number of years an owner of property
14 has not communicated directly with the holder of the
15 property, and has not otherwise indicated an interest in or
16 claimed the property, the property will be delivered to a
17 state administered unclaimed property program. Upon such
18 delivery, the owner will be able to recover the property
19 from the state administered program without charge by the
20 state. The unclaimed asset referred to in this Agreement
21 has not yet been reported or remitted to any state
22 unclaimed property office. Since you reside (or resided) in
23 Illinois, you may obtain information about the Illinois
24 unclaimed property program by logging onto its website at
25 www.treasurer.il.gov.

26 A person or company may not charge a fee greater than

1 25% of the property's value for the recovery of that
2 property where the property is not yet reportable under
3 this Act and the designated owner of that property, as
4 reflected within the books and records of the holder, is
5 living.

6 A person or company may not charge a fee greater than
7 33% of the property's value for the recovery of that
8 property where the property is not yet reportable under
9 this Act and the recovery of that property involves
10 documentation of the owner's death or any elements of
11 estate or trust administration.

12 (Source: P.A. 95-613, eff. 9-11-07.)

13 Section 10. The Consumer Fraud and Deceptive Business
14 Practices Act is amended by adding Section 2BBB as follows:

15 (815 ILCS 505/2BBB new)

16 Sec. 2BBB. Abandoned property recovery fee. Any person or
17 company offering to identify, discover, or collect property
18 held by a public agency, as that term is defined by the Public
19 Funds Investment Act, on behalf of a consumer in exchange for a
20 fee must provide the owner of the property with a written
21 disclosure. This disclosure shall include, at a minimum, a
22 statement indicating the public agency does not charge fees for
23 the recovery of any property. A person or company may not
24 charge a fee greater than 25% for the recovery of property held

1 by a public agency. Any person who violates this Section
2 commits an unlawful practice within the meaning of this Act.
3 This Section is not applicable to any category of property that
4 is, or will become, reportable pursuant to the Uniform
5 Disposition of Unclaimed Property Act.

6 Section 99. Effective date. This Act takes effect January
7 1, 2009, except that Section 10 takes effect July 1, 2009.".