**Section 760.460 Due Diligence Notice by Holder**

a) Sections 15-501 and 15-502 of the Act specify when and how a holder must provide notice to the apparent owner of property presumed abandoned. This notice process is a "due diligence notice" from the holder to the apparent owner. A due diligence notice is intended to provide an opportunity for an apparent owner to indicate interest in the property presumed abandoned prior to such property being reported and remitted to the administrator.

b) Unless otherwise provided by the Act or these rules, the holder of property presumed abandoned shall send to the apparent owner a due diligence notice by first-class U.S. Mail between 60 days and one year before reporting the property (see 765 ILCS 1026/15-501(a)).

c) A holder does not need to send notice by first-class U.S. Mail if any of the following are true:

1) the property is valued at less than $50;

2) the holder does not have in its records an address for the apparent owner that is sufficient for delivery of first-class U.S. Mail;

3) the holder's records indicate that the address for the apparent owner is invalid; or,

4) the holder sends notice by certified U.S. Mail.

d) If the holder has in its records an e-mail address for an apparent owner and the apparent owner has consented to receive e-mail from the holder, then unless the holder believes the e-mail address is invalid, the holder shall send a due diligence notice by e-mail to the apparent owner in addition to any other due diligence notice required by the Act (see 765 ILCS 1026/15-501(b)). Due diligence notice by e-mail does not have to be sent at the same time as a due diligence notice by U.S. mail.

e) Certified Mail Due Diligence for Securities Valued at $1,000 or More

1) If the property presumed abandoned is securities valued at $1,000 or more and the holder has in its records an address for the apparent owner that the holder's records do not disclose to be invalid and is sufficient to direct the delivery of U.S. Mail to the apparent owner, then the due diligence notice shall be sent by certified U.S. Mail (see 765 ILCS 1026/15-501(c)). If the apparent owner is a natural person, then the holder should utilize Certified Mail Restricted Delivery to direct the due diligence notice to the apparent owner or the apparent owner's authorized agent.

2) If the holder sends a due diligence notice by certified mail, then the holder does not need to send a due diligence notice by first-class U.S. Mail.

3) A signed return receipt in response to a notice sent by certified U.S. Mail shall constitute a record communicated by the apparent owner to the holder concerning the property or the account in which the property is held, and thus shall constitute an indication of interest by the apparent owner in the property under Section 15-210 of the Act.

f) A holder may contract with a third party to provide the required due diligence notice to an apparent owner under the Act and these rules.

1) Whether or not the holder contracts with a third party to provide required due diligence notices, the holder remains responsible for ensuring that any required due diligence notices are provided prior to the reporting and remitting of property presumed abandoned to the administrator.

2) If a holder contracts with a third party to provide required due diligence notices and the due diligence notice is being sent after the date the property was presumed abandoned under the Act, then, pursuant to Section 15-1302 of the Act, neither the holder nor the third party may charge the apparent owner a fee to indicate an interest in property presumed abandoned or to otherwise prevent the reporting and remitting of property presumed abandoned to the administrator.

g) Contents of Due Diligence Notice

1) A due diligence notice by a holder must contain a heading that reads substantially as follows: "Notice. The State of Illinois requires us to notify you that your property may be transferred to the custody of the State Treasurer if you do not contact us before (insert date that is 30 days after the date of this notice)."

2) A due diligence notice by a holder must:

A) identify the nature and, except for property that does not have a fixed value, the value of the property that is the subject of the notice;

B) state that the property will be turned over to the State Treasurer;

C) state that after the property is turned over to the State Treasurer an apparent owner that seeks return of the property may file a claim with the State Treasurer;

D) state that property that is not legal tender of the United States may be sold by the State Treasurer;

E) provide instructions that the apparent owner must follow to prevent the holder from reporting and paying or delivering the property to the State Treasurer; and,

F) provide the name, address, and e-mail address or telephone number to contact the holder.

3) In a due diligence notice, the holder may also list a website where apparent owners may obtain more information about how to prevent the holder from reporting and paying or delivering the property to the State Treasurer.

h) Holder Deduction of Costs of Due Diligence Notices

1) A holder that reports and remits money may deduct from total amounts remitted, the actual costs of due diligence notices.

2) The deduction shall consist of the cost of envelopes, postage, and stationery. No other costs may be deducted.

3) For purposes of holder deductions for due diligence mailings, postage includes amounts paid to the United States Postal Service for first class United States mail and certified United States mail.

4) A holder may be required to document or certify to the costs incurred and deducted.

(Source: Amended at 46 Ill. Reg. 16898, effective September 26, 2022)