



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB2142

Introduced 2/26/2021, by Sen. Dan McConchie

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Revised Uniform Unclaimed Property Act. Provides that property due or owed by a 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 administrator more than 10 years after the holder filed a nonfraudulent report with the administrator (rather than 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 regarding the tolling of the period of limitation. Provides instead that the parties may agree to extend the period of limitation. Provides that the administrator may not commence an action, proceeding, or examination with respect to a duty of a holder more than 10 years after the duty arose. Provides that if a person subject to examination does not retain the records, the administrator may use specific estimation techniques to determine the amount of unclaimed property and shall incorporate a net method of extrapolation (rather than determine the value of property due using a reasonable method of estimation based on all information available to the administrator). Deletes language providing that a payment made based on estimation is a penalty for failure to maintain the records and does not relieve a person from an obligation to report and deliver property to a State in which the holder is domiciled. Provides that a holder may request a hearing to contest the use or validity of the estimation technique. Provides that the examination is final upon the failure of the holder to request a hearing. Provides that if a hearing is held, the State Treasurer shall issue an order approving or disapproving the use or validity of the estimation techniques. Deletes language providing that if the administrator contracts with a person, the contract may provide for compensation of the person based on a contingent fee. Deletes language providing that an initial report filed for property that was not required to be reported before the Act took effect must include all items of property that would have been presumed abandoned during the 5-year period preceding the effective date as if the Act had been in effect during that period.

LRB102 16289 LNS 21671 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  
15 or business association is directly liable, 3 years after  
16 issuance;

17 (4) a state or municipal bond, bearer bond, or  
18 original-issue-discount bond, 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, 3 years after  
22 the obligation to pay arises;

23 (6) a demand, savings, or time deposit, 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, 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, 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, 3 years after the obligation to pay  
14 arose under the terms of the policy or contract or, if a  
15 policy or contract for which an amount is owed on proof of  
16 death has not matured by proof of the death of the insured  
17 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) 3 years after the death of the insured; or

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

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

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

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

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

9 (C) 40 years after the contract for prepayment was  
10 executed, unless the apparent owner has indicated an  
11 interest in the property more than 40 years after the  
12 contract for prepayment was executed, in which case, 3  
13 years after the last indication of interest in the  
14 property by the apparent owner;

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

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

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

1           (13) wages, commissions, bonuses, or reimbursements to  
2           which an employee is entitled, or other compensation for  
3           personal services, including amounts held on a payroll  
4           card, one year after the amount becomes payable;

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

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

22          (b) Notwithstanding anything to the contrary in this  
23          Section 15-201, and subject to Section 15-210, a deceased  
24          owner cannot indicate interest in his or her property. If the  
25          owner is deceased and the abandonment period for the owner's  
26          property specified in this Section 15-201 is greater than 2

1 years, then the property, other than an amount owed by an  
2 insurance company on a life or endowment insurance policy or  
3 an annuity contract that has matured or terminated, shall  
4 instead be presumed abandoned 2 years from the date of the  
5 owner's last indication of interest in the property.

6 (c) Notwithstanding anything to the contrary in this  
7 Section, a property due or owed by a business association  
8 resulting from a transaction occurring in the normal and  
9 ordinary course of business is exempt from this Act.

10 (Source: P.A. 100-22, eff. 1-1-18; 100-566, eff. 1-1-18;  
11 101-552, eff. 1-1-20.)

12 (765 ILCS 1026/15-610)

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

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

21 (b) An action or proceeding may not be maintained by the  
22 administrator to enforce this Act in regard to the reporting,  
23 delivery, or payment of property more than 10 years after the  
24 holder filed a nonfraudulent report with the administrator.  
25 The parties may agree to extend the period of limitation in

1 ~~this subsection specifically identified the property in a~~  
2 ~~report filed with the administrator or gave express notice to~~  
3 ~~the administrator of a dispute regarding the property. In the~~  
4 ~~absence of such a report or other express notice, the period of~~  
5 ~~limitation is tolled. The period of limitation is also tolled~~  
6 ~~by the filing of a report that is fraudulent.~~

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

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

11 (765 ILCS 1026/15-1006)

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

14 (a) If a person subject to examination under Section  
15 15-1002 does not retain the records required by Section  
16 15-404, the administrator may use estimation techniques that  
17 conform to either generally accepted auditing standards or  
18 generally accepted accounting principles to determine the  
19 amount of unclaimed property. In the conduct of an  
20 examination, the State shall not request any records of a  
21 holder that relate to property that is not subject to this Act.  
22 The estimation techniques used shall incorporate a net method  
23 of extrapolation ~~determine the value of property due using a~~  
24 ~~reasonable method of estimation based on all information~~  
25 ~~available to the administrator, including extrapolation and~~

1 ~~use of statistical sampling when appropriate and necessary,~~  
2 consistent with examination procedures and standards adopted  
3 under Section 15-1003. For purposes of this Section, "net  
4 method" means the numerator is only property located in this  
5 State or State-sourced property and the denominator is a  
6 reasonable surrogate, such as sales or payroll. ~~A payment made~~  
7 ~~based on estimation under this Section is a penalty for~~  
8 ~~failure to maintain the records required by Section 15-404 and~~  
9 ~~does not relieve a person from an obligation to report and~~  
10 ~~deliver property to a State in which the holder is domiciled.~~

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

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

20 (765 ILCS 1026/15-1009)

21 Sec. 15-1009. Administrator's contract with another to  
22 conduct examination.

23 (a) The administrator may contract with a person to  
24 conduct an examination under this Article. The contract shall  
25 be 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, or hourly fee, ~~or contingent~~  
6 ~~fee;~~

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

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

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

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

20 (765 ILCS 1026/15-1503)

21 Sec. 15-1503. Transitional provision.

22 (a) (Blank). ~~An initial report filed under this Act for~~  
23 ~~property that was not required to be reported before the~~  
24 ~~effective date of this Act, but that is required to be reported~~  
25 ~~under this Act, must include all items of property that would~~

1 ~~have been presumed abandoned during the 5-year period~~  
2 ~~preceding the effective date of this Act as if this Act had~~  
3 ~~been in effect during that period.~~

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

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

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