



Rep. Jack D. Franks

Filed: 2/25/2011

09700HB1791ham001

LRB097 09572 AJ0 51446 a

1 AMENDMENT TO HOUSE BILL 1791

2 AMENDMENT NO. _____. Amend House Bill 1791 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 Sections 11, 13, 14, 15, and 16 and
6 by adding Section 14a as follows:

7 (765 ILCS 1025/11) (from Ch. 141, par. 111)

8 Sec. 11. Report of holder.

9 (a) Except as otherwise provided in subsection (c) of
10 Section 4 and in subsection (k) of this Section, every person
11 holding funds or other property, tangible or intangible,
12 presumed abandoned under this Act shall report and remit all
13 abandoned property specified in the report to the State
14 Treasurer with respect to the property as hereinafter provided.
15 The State Treasurer may exempt any businesses from the
16 reporting requirement if he deems such businesses unlikely to

1 be holding unclaimed property.

2 (b) The information shall be obtained in one or more
3 reports as required by the State Treasurer. The information
4 shall be verified and shall include:

5 (1) the name, social security or federal tax
6 identification number, if known, and last known address,
7 including zip code, of each person appearing from the
8 records of the holder to be the owner of any property of
9 the value of \$25 or more presumed abandoned under this Act;

10 (2) in case of unclaimed funds of life insurance
11 corporations the full name of the insured and any
12 beneficiary or annuitant and the last known address
13 according to the life insurance corporation's records;

14 (3) the date when the property became payable,
15 demandable, or returnable, and the date of the last
16 transaction with the owner with respect to the property;
17 and

18 (4) other information which the State Treasurer
19 prescribes by rule as necessary for the administration of
20 this Act.

21 (c) If the person holding property presumed abandoned is a
22 successor to other persons who previously held the property for
23 the owner, or if the holder has changed his name while holding
24 the property, he shall file with his report all prior known
25 names and addresses of each holder of the property.

26 (d) The report and remittance of the property specified in

1 the report shall be filed by banking organizations, financial
2 organizations, insurance companies other than life insurance
3 corporations, and governmental entities before November 1 of
4 each year as of June 30 next preceding. The report and
5 remittance of the property specified in the report shall be
6 filed by business associations, utilities, and life insurance
7 corporations before May 1 of each year as of December 31 next
8 preceding. The Director may postpone the reporting date upon
9 written request by any person required to file a report. The
10 report and remittance of the property specified in the report
11 for property subject to subsection (a) of Section 3a of this
12 Act shall be filed before a date established by the State
13 Treasurer that is on or after the later of: (i) 30 days after
14 the effective date of this amendatory Act of the 94th General
15 Assembly; or (ii) November 1, 2005.

16 (d-5) Notwithstanding the foregoing, currency exchanges
17 shall be required to report and remit property specified in the
18 report within 30 days after the conclusion of its annual
19 examination by the Department of Financial Institutions. As
20 part of the examination of a currency exchange, the Department
21 of Financial Institutions shall instruct the currency exchange
22 to submit a complete unclaimed property report using the State
23 Treasurer's formatted diskette reporting program or an
24 alternative reporting format approved by the State Treasurer.
25 The Department of Financial Institutions shall provide the
26 State Treasurer with an accounting of the money orders located

1 in the course of the annual examination including, where
2 available, the amount of service fees deducted and the date of
3 the conclusion of the examination.

4 (e) Before filing the annual report, the holder of property
5 presumed abandoned under this Act shall communicate with the
6 owner at his last known address if any address is known to the
7 holder, setting forth the provisions hereof necessary to occur
8 in order to prevent abandonment from being presumed. If the
9 holder has not communicated with the owner at his last known
10 address at least 120 days before the deadline for filing the
11 annual report, the holder shall mail, at least 60 days before
12 that deadline, a letter by first class mail to the owner at his
13 last known address unless any address is shown to be
14 inaccurate, setting forth the provisions hereof necessary to
15 prevent abandonment from being presumed.

16 (f) Verification, if made by a partnership, shall be
17 executed by a partner; if made by an unincorporated association
18 or private corporation, by an officer; and if made by a public
19 corporation, by its chief fiscal officer.

20 (g) Any person who has possession of property which he has
21 reason to believe will be reportable in the future as unclaimed
22 property, may report and deliver it prior to the date required
23 for such reporting in accordance with this Section and is then
24 relieved of responsibility as provided in Section 14.

25 (h) (1) Records pertaining to presumptively abandoned
26 property held by a trust division or trust department or by a

1 trust company, or affiliate of any of the foregoing that
2 provides nondealer corporate custodial services for securities
3 or securities transactions, organized under the laws of this or
4 another state or the United States shall be retained until the
5 property is delivered to the State Treasurer.

6 As of January 1, 1998, this subdivision (h) (1) shall not be
7 applicable unless the Department of Financial Institutions has
8 commenced, but not finalized, an examination of the holder as
9 of that date and the property is included in a final
10 examination report for the period covered by the examination.

11 (2) In the case of all other holders commencing on the
12 effective date of this amendatory Act of 1993, property records
13 for the period required for presumptive abandonment plus the 9
14 years immediately preceding the beginning of that period shall
15 be retained for 5 years after the property was reportable.

16 (i) The State Treasurer may promulgate rules establishing
17 the format and media to be used by a holder in submitting
18 reports required under this Act.

19 (j) Other than the Notice to Owners required by Section 12
20 and other discretionary means employed by the State Treasurer
21 for notifying owners of the existence of abandoned property,
22 the State Treasurer shall not disclose any information provided
23 in reports filed with the State Treasurer or any information
24 obtained in the course of an examination by the State Treasurer
25 to any person other than governmental agencies for the purposes
26 of returning abandoned property to its owners or to those

1 individuals who appear to be the owner of the property or
2 otherwise have a valid claim to the property, unless written
3 consent from the person entitled to the property is obtained by
4 the State Treasurer.

5 (k) Upon notice to the State Treasurer that is filed with
6 the annual report required by this Section, a county treasurer
7 holding funds presumed abandoned under the Act may elect, upon
8 express written authorization of the county board, to report
9 but not remit those funds. A county board and a county
10 treasurer that exercise the option to retain funds under this
11 subsection (k) shall nonetheless complete an annual report that
12 includes and describes the retained funds. A county treasurer
13 who elects to report, but not remit, funds otherwise required
14 to be remitted under this Section must deposit those funds in
15 the county's treasury, provided that the county board must
16 file, with the annual report sent to the State Treasurer, its
17 pledge to make payment from the retained funds to an owner, in
18 the event that the State Treasurer determines pursuant to the
19 Act that a payment is due to an owner.

20 (Source: P.A. 93-531, eff. 8-14-03; 94-686, eff. 11-2-05.)

21 (765 ILCS 1025/13) (from Ch. 141, par. 113)

22 Sec. 13. Except for a county treasurer who filed a report
23 but who did not remit funds, as allowed by Section 11, every
24 ~~Every~~ person who has filed a report as provided by Section 11
25 shall deliver to the State Treasurer all abandoned property

1 specified in the annual report on the same date that the annual
2 report is filed. Costs for communicating with owners by mail as
3 required by subsection (e) of Section 11 may be deducted from
4 the property specified in the report. Any such person, who
5 pursuant to a statutory requirement, filed a bond or bonds
6 pertaining to such abandoned property with the State Treasurer
7 or his predecessor, may also deduct an amount equivalent to
8 that part of the bond premium attributable to such abandoned
9 property.

10 (Source: P.A. 90-167, eff. 7-23-97; 91-16, eff. 7-1-99.)

11 (765 ILCS 1025/14) (from Ch. 141, par. 114)

12 Sec. 14. Upon the payment or delivery of abandoned property
13 to the State Treasurer, the state shall assume custody and
14 shall be responsible for the safekeeping thereof. Any person
15 who pays or delivers abandoned property to the State Treasurer
16 under this Act is relieved of all liability to the extent of
17 the value of the property so paid or delivered for any claim
18 which then exists or which thereafter may arise or be made in
19 respect to the property.

20 In the event legal proceedings are instituted by any other
21 state or states in any state or federal court with respect to
22 unclaimed funds or abandoned property previously paid,
23 reported, or delivered to the State Treasurer, the holder shall
24 give written notification to the State Treasurer and the
25 Attorney General of this state of such proceedings within 10

1 days after service of process, or in the alternative at least
2 10 days before the return date or date on which an answer or
3 similar pleading is due (or any extension thereof secured by
4 the holder). The Attorney General may take such action as he
5 deems necessary or expedient to protect the interests of the
6 State of Illinois. The Attorney General by written notice prior
7 to the return date or date on which an answer or similar
8 pleading is due (or any extension thereof secured by the
9 holder), but in any event in reasonably sufficient time for the
10 holder to comply with the directions received, shall either
11 direct the holder actively to defend in such proceedings or
12 that no defense need be entered in such proceedings. If a
13 direction is received from the Attorney General that the holder
14 need not make a defense, such shall not preclude the holder
15 from entering a defense in its own name if it should so choose.
16 However, any defense made by the holder on its own initiative
17 shall not entitle the holder to reimbursement for legal fees,
18 costs and other expenses as is hereinafter provided in respect
19 to defenses made pursuant to the directions of the Attorney
20 General. If, after the holder has actively defended in such
21 proceedings pursuant to a direction of the Attorney General, or
22 has been notified in writing by the Attorney General that no
23 defense need be made with respect to such funds, a judgment is
24 entered against the holder for any amount paid to the State
25 Treasurer under this Act, the State Treasurer shall, upon being
26 furnished with proof of payment in satisfaction of such

1 judgment, reimburse the holder the amount so paid. The State
2 Treasurer shall also reimburse the holder for any legal fees,
3 costs and other directly related expenses incurred in legal
4 proceedings undertaken pursuant to the direction of the
5 Attorney General.

6 (Source: P.A. 91-16, eff. 7-1-99.)

7 (765 ILCS 1025/14a new)

8 Sec. 14a. Retention of funds. Upon the retention of
9 abandoned funds pursuant to Section 11, a county treasurer
10 shall be responsible for the safekeeping of the retained funds.
11 In the event the owner steps forward to claim abandoned funds
12 previously retained by the county treasurer, the county
13 treasurer shall forward this claim to the State Treasurer who
14 shall review the claim and respond as provided in the Act.

15 (765 ILCS 1025/15) (from Ch. 141, par. 115)

16 Sec. 15. When property is paid, reported, or delivered to
17 the State Treasurer under this Act, the owner is not entitled
18 to receive income or other increments accruing thereafter,
19 except that income accruing on unliquidated stock and mutual
20 funds after July 1, 1993, may be paid to the owner.

21 (Source: P.A. 91-16, eff. 7-1-99.)

22 (765 ILCS 1025/16) (from Ch. 141, par. 116)

23 Sec. 16. The expiration of any period of time specified by

1 statute or court order, during which an action or proceeding
2 may be commenced or enforced to obtain payment of a claim for
3 money or recovery of property, shall not prevent the money or
4 property from being presumed abandoned property, nor affect any
5 duty to file a report required by this Act or to pay, report,
6 or deliver abandoned property to the State Treasurer.

7 (Source: P.A. 91-16, eff. 7-1-99.)

8 Section 99. Effective date. This Act takes effect January
9 1, 2012."