

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Illinois Funeral or Burial Funds Act is amended by changing Section 2 as follows:

(225 ILCS 45/2) (from Ch. 111 1/2, par. 73.102)

Sec. 2. (a) If a purchaser selects a trust arrangement to fund the pre-need contract, all trust deposits as determined by Section 1b shall be made within 30 days of receipt.

(b) A trust established under this Act must be maintained with a corporate fiduciary as defined in Section 1-5.05 of the Corporate Fiduciary Act or with a foreign corporate fiduciary recognized by Article IV of the Corporate Fiduciary Act.

(c) Trust agreements and amendments to the trust agreements used to fund a pre-need contract shall be filed with the Comptroller.

(d) (Blank).

(e) A seller or provider shall furnish to the trustee and depository the name of each payor and the amount of payment on each such account for which deposit is being so made. Nothing shall prevent the trustee from commingling the deposits in any such trust fund for purposes of its management and the investment of its funds as provided in the Common Trust Fund

Act. In addition, multiple trust funds maintained under this Act may be commingled or commingled with other funeral or burial related trust funds if all record keeping requirements imposed by law are met.

(f) (Blank).

(g) Upon no less than 30 days prior notice to the Comptroller, the seller may change the trustee of the fund. Failure to provide the Comptroller with timely prior notice is an intentional violation of this Act.

(h) A trustee shall at least annually furnish to each purchaser a statement containing: (1) the receipts, disbursements, and inventory of the trust, including an explanation of any fees or expenses charged by the trustee under Section 5 of this Act or otherwise, (2) an explanation of the purchaser's right to a refund, if any, under this Act, and (3) identifying the primary regulator of the trust as a corporate fiduciary under state or federal law.

(i) If a trustee has reason to believe that the contact information for a purchaser is no longer valid, then the trustee shall promptly notify the seller. If a trustee has reason to believe that the purchaser is deceased, then the trustee shall promptly notify the seller. A trustee shall report and remit to the State Treasurer any trust funds, including both the principal and any accrued earnings or losses, less any funds allowed to be retained under subsection (c-5) of Section 4, relating to an individual account that is

presumed abandoned under the Revised Uniform Unclaimed Property Act.

(Source: P.A. 96-879, eff. 2-2-10; 97-593, eff. 8-26-11.)

Section 10. The Revised Uniform Unclaimed Property Act is amended by changing Sections 15-102 and 15-201 as follows:

(765 ILCS 1026/15-102)

Sec. 15-102. Definitions. In this Act:

(1) "Administrator" means the State Treasurer.

(2) "Administrator's agent" means a person with which the administrator contracts to conduct an examination under Article 10 on behalf of the administrator. The term includes an independent contractor of the person and each individual participating in the examination on behalf of the person or contractor.

(2.5) (Blank).

(3) "Apparent owner" means a person whose name appears on the records of a holder as the owner of property held, issued, or owing by the holder.

(4) "Business association" means a corporation, joint stock company, investment company, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, federally chartered entity, utility,

sole proprietorship, or other business entity, whether or not for profit.

(5) "Confidential information" means information that is "personal information" under the Personal Information Protection Act, "private information" under the Freedom of Information Act or personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information as provided in the Freedom of Information Act.

(6) "Domicile" means:

(A) for a corporation, the state of its incorporation;

(B) for a business association whose formation requires a filing with a state, other than a corporation, the state of its filing;

(C) for a federally chartered entity or an investment company registered under the Investment Company Act of 1940, the state of its home office; and

(D) for any other holder, the state of its principal place of business.

(7) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(8) "Electronic mail" means a communication by

electronic means which is automatically retained and stored and may be readily accessed or retrieved.

(8.5) "Escheat fee" means any charge imposed solely by virtue of property being reported as presumed abandoned.

(9) "Financial organization" means a bank, savings bank, foreign bank, corporate fiduciary, currency exchange, money transmitter, or credit union.

(10) "Game-related digital content" means digital content that exists only in an electronic game or electronic-game platform. The term:

(A) includes:

(i) game-play currency such as a virtual wallet, even if denominated in United States currency; and

(ii) the following if for use or redemption only within the game or platform or another electronic game or electronic-game platform:

(I) points sometimes referred to as gems, tokens, gold, and similar names; and

(II) digital codes; and

(B) does not include an item that the issuer:

(i) permits to be redeemed for use outside a game or platform for:

(I) money; or

(II) goods or services that have more than minimal value; or

(ii) otherwise monetizes for use outside a game or platform.

(11) "Gift card" means a record evidencing a promise made for consideration by the seller or issuer of the record that goods, services, or money will be provided to the owner of the record to the value or amount shown in the record that is either:

(A) a record:

(i) issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount;

(ii) the value of which does not expire;

(iii) that is not subject to a dormancy, inactivity, or post-sale service fee;

(iv) that is redeemable upon presentation for goods or services; and

(v) that, unless required by law, may not be redeemed for or converted into money or otherwise monetized by the issuer; or

(B) a prepaid commercial mobile radio service, as defined in 47 C.F.R. 20.3, as amended.

(12) "Holder" means a person obligated to hold for the account of, or to deliver or pay to, the owner, property subject to this Act.

(13) "Insurance company" means an association, corporation, or fraternal or mutual-benefit organization,

whether or not for profit, engaged in the business of providing life endowments, annuities, or insurance, including accident, burial, casualty, credit-life, contract-performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage-protection, and worker-compensation insurance.

(14) "Loyalty card" means a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate, or promotional program which may be used or redeemed only to obtain goods or services or a discount on goods or services. The term does not include a record that may be redeemed for money or otherwise monetized by the issuer.

(15) "Mineral" means gas, oil, coal, oil shale, other gaseous liquid or solid hydrocarbon, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources, and any other substance defined as a mineral by law of this State other than this Act.

(16) "Mineral proceeds" means an amount payable for extraction, production, or sale of minerals, or, on the abandonment of the amount, an amount that becomes payable after abandonment. The term includes an amount payable:

(A) for the acquisition and retention of a mineral

lease, including a bonus, royalty, compensatory royalty, shut-in royalty, minimum royalty, and delay rental;

(B) for the extraction, production, or sale of minerals, including a net revenue interest, royalty, overriding royalty, extraction payment, and production payment; and

(C) under an agreement or option, including a joint-operating agreement, unit agreement, pooling agreement, and farm-out agreement.

(17) "Money order" means a payment order for a specified amount of money. The term includes an express money order and a personal money order on which the remitter is the purchaser.

(18) "Municipal bond" means a bond or evidence of indebtedness issued by a municipality or other political subdivision of a state.

(19) "Net card value" means the original purchase price or original issued value of a stored-value card, plus amounts added to the original price or value, minus amounts used and any service charge, fee, or dormancy charge permitted by law.

(20) "Non-freely transferable security" means a security that cannot be delivered to the administrator by the Depository Trust Clearing Corporation or similar custodian of securities providing post-trade clearing and

settlement services to financial markets or cannot be delivered because there is no agent to effect transfer. The term includes a worthless security.

(21) "Owner", unless the context otherwise requires, means a person that has a legal, beneficial, or equitable interest in property subject to this Act or the person's legal representative when acting on behalf of the owner. The term includes:

(A) a depositor, for a deposit;

(B) a beneficiary, for a trust other than a deposit in trust;

(C) a creditor, claimant, or payee, for other property; and

(D) the lawful bearer of a record that may be used to obtain money, a reward, or a thing of value.

(22) "Payroll card" means a record that evidences a payroll-card account as defined in Regulation E, 12 CFR Part 1005, as amended.

(23) "Person" means an individual, estate, business association, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity, whether or not for profit.

(24) "Property" means tangible property described in Section 15-201 or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder's business or by a government, governmental

subdivision, agency, or instrumentality. The term:

(A) includes all income from or increments to the property;

(B) includes property referred to as or evidenced by:

(i) money, virtual currency, interest, or a dividend, check, draft, deposit, or payroll card;

(ii) a credit balance, customer's overpayment, stored-value card, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds, or unidentified remittance;

(iii) a security except for:

(I) a worthless security; or

(II) a security that is subject to a lien, legal hold, or restriction evidenced on the records of the holder or imposed by operation of law, if the lien, legal hold, or restriction restricts the holder's or owner's ability to receive, transfer, sell, or otherwise negotiate the security;

(iv) a bond, debenture, note, or other evidence of indebtedness;

(v) money deposited to redeem a security, make a distribution, or pay a dividend;

(vi) an amount due and payable under an annuity contract or insurance policy;

(vii) an amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit-sharing, employee-savings, supplemental-unemployment insurance, or a similar benefit; and

(viii) any instrument on which a financial organization or business association is directly liable; and

(C) does not include:

(i) game-related digital content;

(ii) a loyalty card; ~~or~~

(iii) a gift card; or ~~-~~

(iv) funds on deposit or held in trust pursuant to Section 16 of the Illinois Pre-Need Cemetery Sales Act.

(25) "Putative holder" means a person believed by the administrator to be a holder, until the person pays or delivers to the administrator property subject to this Act or the administrator or a court makes a final determination that the person is or is not a holder.

(26) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. The phrase

"records of the holder" includes records maintained by a third party that has contracted with the holder.

(27) "Security" means:

(A) a security as defined in Article 8 of the Uniform Commercial Code;

(B) a security entitlement as defined in Article 8 of the Uniform Commercial Code, including a customer security account held by a registered broker-dealer, to the extent the financial assets held in the security account are not:

(i) registered on the books of the issuer in the name of the person for which the broker-dealer holds the assets;

(ii) payable to the order of the person; or

(iii) specifically indorsed to the person; or

(C) an equity interest in a business association not included in subparagraph (A) or (B).

(28) "Sign" means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(29) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United

States.

(30) "Stored-value card" means a card, code, or other device that is:

(A) issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount, whether or not that amount may be increased or reloaded in exchange for payment; and

(B) redeemable upon presentation at multiple unaffiliated merchants for goods or services or usable at automated teller machines; and

"Stored-value card" does not include a gift card, payroll card, loyalty card, or game-related digital content.

(31) "Utility" means a person that owns or operates for public use a plant, equipment, real property, franchise, or license for the following public services:

(A) transmission of communications or information;

(B) production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas; or

(C) provision of sewage or septic services, or trash, garbage, or recycling disposal.

(32) "Virtual currency" means a digital representation of value used as a medium of exchange, unit of account, or store of value, which does not have legal tender status recognized by the United States. The term does not include:

(A) the software or protocols governing the transfer of the digital representation of value;

(B) game-related digital content; or

(C) a loyalty card or gift card.

(33) "Worthless security" means a security whose cost of liquidation and delivery to the administrator would exceed the value of the security on the date a report is due under this Act.

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

(765 ILCS 1026/15-201)

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

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

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

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

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

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

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

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

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

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

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

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

(B) with respect to an amount owed on an annuity

contract, 3 years after the death of the annuitant.

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

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

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

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

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

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

(12) property held by a government or governmental subdivision, agency, or instrumentality, including municipal bond interest and unredeemed principal under the administration of a paying agent or indenture trustee, 3

years after the property becomes distributable;

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

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

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

Notwithstanding anything to the contrary in this Section 15-201, and subject to Section 15-210, a deceased owner cannot indicate interest in his or her property. If the owner is deceased and the abandonment period for the owner's property

specified in this Section 15-201 is greater than 2 years, then the property, other than an amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, shall instead be presumed abandoned 2 years from the date of the owner's last indication of interest in the property.

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

Section 15. The Illinois Pre-Need Cemetery Sales Act is amended by changing Section 16 and by adding Section 18.5 as follows:

(815 ILCS 390/16) (from Ch. 21, par. 216)

Sec. 16. Trust funds; disbursements.

(a) A trustee shall make no disbursements from the trust fund except as provided in this Act.

(b) A trustee has a duty to invest and manage the trust assets pursuant to the Prudent Investor Rule under the Trusts and Trustees Act. Whenever the seller changes trustees pursuant to this Act, the trustee must provide written notice of the change in trustees to the Comptroller no less than 28 days prior to the effective date of such a change in trustee. The trustee has an ongoing duty to provide the Comptroller with a current and true copy of the trust agreement under which the trust funds are held pursuant to this Act.

(c) The trustee may rely upon certifications and affidavits

made to it under the provisions of this Act, and shall not be liable to any person for such reliance.

(d) A trustee shall be allowed to withdraw from the trust funds maintained pursuant to this Act a reasonable fee pursuant to the Trusts and Trustees Act.

(e) The trust shall be a single-purpose trust fund. In the event of the seller's bankruptcy, insolvency or assignment for the benefit of creditors, or an adverse judgment, the trust funds shall not be available to any creditor as assets of the seller or to pay any expenses of any bankruptcy or similar proceeding, but shall be distributed to the purchasers or managed for their benefit by the trustee holding the funds. Except in an action by the Comptroller to revoke a license issued pursuant to this Act and for creation of a receivership as provided in this Act, the trust shall not be subject to judgment, execution, garnishment, attachment, or other seizure by process in bankruptcy or otherwise, nor to sale, pledge, mortgage, or other alienation, and shall not be assignable except as approved by the Comptroller. The changes made by this amendatory Act of the 91st General Assembly are intended to clarify existing law regarding the inability of licensees to pledge the trust.

(f) Because it is not known at the time of deposit or at the time that income is earned on the trust account to whom the principal and the accumulated earnings will be distributed, for purposes of determining the Illinois Income Tax due on these

trust funds, the principal and any accrued earnings or losses relating to each individual account shall be held in suspense until the final determination is made as to whom the account shall be paid.

(g) A trustee shall at least annually furnish to each purchaser a statement identifying: (1) the receipts, disbursements, and inventory of the trust, including an explanation of any fees or expenses charged by the trustee under paragraph (d) of this Section or otherwise, (2) an explanation of the purchaser's right to a refund, if any, under this Act, and (3) the primary regulator of the trust as a corporate fiduciary under state or federal law.

(h) If the trustee has reason to believe that the contact information for a purchaser is no longer valid, then the trustee shall promptly notify the seller. If the trustee has reason to believe that the purchaser is deceased, then the trustee shall promptly notify the seller. A trustee shall remit as provided in Section 18.5 of this Act any pre-need trust funds, including both the principal and any accrued earnings or losses, relating to an individual account that is presumed abandoned under Section 18.5.

(Source: P.A. 96-879, eff. 2-2-10.)

(815 ILCS 390/18.5 new)

Sec. 18.5. Presumptively abandoned trust funds.

(a) After final payment on a pre-need contract, the entire

amount held in trust attributable to undelivered cemetery merchandise and unperformed cemetery services, including undistributed interest earned thereon, is presumptively abandoned 2 years after the earlier of:

(A) the later of:

(i) the date the seller in the ordinary course of its business receives notice or an indication of the death of a beneficiary; or

(ii) 10 years after the death of a beneficiary if a beneficiary is cremated and the purchaser or the heir or assign, or other beneficiaries if any, or a duly authorized representative of the purchaser or a beneficiary, has not indicated an interest in the trust funds;

(B) the date a beneficiary has attained, or would have attained if living, the age of 105 where both the trustee and the seller do not know whether a beneficiary is deceased; or

(C) 50 years after the pre-need contract was executed, unless the purchaser or the heir or assign, or a duly authorized representative of the purchaser or a beneficiary, has indicated an interest in the property more than 50 years after the pre-need contract was executed, in which case, 3 years after the last indication of interest by the purchaser or the heir or assign, or a beneficiary, or a duly authorized representative of a purchaser or a

beneficiary.

(b) The period after which trust funds are presumed abandoned is measured from the later of: (1) the date the trust funds are presumed abandoned under this Section; or (2) the latest indication of interest by the apparent owner in the trust funds. If more than one beneficiary is included in a pre-need contract, an indication of interest by any one or more of the beneficiaries requires that the presumption of abandonment under paragraphs (A) and (B) of subsection (a) be evaluated based on the beneficiary's information. An indication of interest in the trust funds includes any one or more of the actions listed in subsection (b) of Section 15-210 of the Revised Uniform Unclaimed Property Act.

(c) The seller shall notify the trustee of the pre-need trust funds in writing when any trust funds are presumed abandoned under this Section.

(d) If the seller is licensed to hold care funds under the Cemetery Care Act, then within 30 days of receiving notice that pre-need trust funds are presumed abandoned under this Section, the trustee of the pre-need trust funds shall remit the presumptively abandoned pre-need trust funds to the trustee for the care fund held pursuant to the Cemetery Care Act for deposit into such care fund. If the seller has retained an independent trustee pursuant to the Cemetery Care Act, then any funds remitted pursuant to this Section shall be remitted to the independent trustee. If the purchaser or beneficiary of

pre-need trust funds presumed abandoned under this Section and deposited into a care fund makes a claim, then the seller shall direct the trustee of the care funds held pursuant to the Cemetery Care Act to refund the purchaser or beneficiary the amount that was deposited into the care fund.

(e) If the seller is not licensed to hold care funds under the Cemetery Care Act, the trustee of pre-need trust funds shall remit presumptively abandoned trust funds to the Comptroller semi-annually within 30 days after the end of June and December for deposit into the Cemetery Consumer Protection Fund. If the purchaser or beneficiary of pre-need trust funds that were presumed abandoned under this Section and deposited into the Cemetery Consumer Protection Fund makes a claim, then either the seller shall request restitution or reimbursement from the Cemetery Consumer Protection Fund as provided in Section 22 and provide the cemetery merchandise or cemetery services pursuant to the pre-need contract, or the purchaser or beneficiary shall request restitution or reimbursement from the Cemetery Consumer Protection Fund as provided in Section 22.

(f) Notwithstanding any provision of this Act, the only penalties that may be imposed in connection with the administration of this Section are those provided in the Revised Uniform Unclaimed Property Act.