



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2573

by Rep. Michael J. Zalewski

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 non-fraudulent 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.

LRB101 07538 LNS 52583 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 or
15 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 the
22 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, or
22 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;

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

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

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

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

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

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

18 (b) Notwithstanding anything to the contrary in this
19 Section 15-201, and subject to Section 15-210, a deceased owner
20 cannot indicate interest in his or her property. If the owner
21 is deceased and the abandonment period for the owner's property
22 specified in this Section 15-201 is greater than 2 years, then
23 the property, other than an amount owed by an insurance company
24 on a life or endowment insurance policy or an annuity contract
25 that has matured or terminated, shall instead be presumed
26 abandoned 2 years from the date of the owner's last indication

1 of interest in the property.

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

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

7 (765 ILCS 1026/15-610)

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

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

16 (b) An action or proceeding may not be maintained by the
17 administrator to enforce this Act in regard to the reporting,
18 delivery, or payment of property more than 10 years after the
19 holder filed a non-fraudulent report with the administrator.
20 The parties may agree to extend the period of limitation in
21 this subsection ~~specifically identified the property in a~~
22 ~~report filed with the administrator or gave express notice to~~
23 ~~the administrator of a dispute regarding the property. In the~~
24 ~~absence of such a report or other express notice, the period of~~
25 ~~limitation is tolled. The period of limitation is also tolled~~

1 ~~by the filing of a report that is fraudulent.~~

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

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

6 (765 ILCS 1026/15-1006)

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

8 (a) If a person subject to examination under Section
9 15-1002 does not retain the records required by Section 15-404,
10 the administrator may use estimation techniques that conform to
11 either generally accepted auditing standards or generally
12 accepted accounting principles to determine the amount of
13 unclaimed property. In the conduct of an examination, the State
14 shall not request any records of a holder that relate to
15 property that is not subject to this Act. The estimation
16 techniques used shall incorporate a net method of extrapolation
17 ~~determine the value of property due using a reasonable method~~
18 ~~of estimation based on all information available to the~~
19 ~~administrator, including extrapolation and use of statistical~~
20 ~~sampling when appropriate and necessary,~~ consistent with
21 examination procedures and standards adopted under Section
22 15-1003. For purposes of this Section, "net method" means the
23 numerator is only property located in this State or
24 State-sourced property and the denominator is a reasonable
25 surrogate, such as sales or payroll. A payment made based on

1 ~~estimation under this Section is a penalty for failure to~~
2 ~~maintain the records required by Section 15-404 and does not~~
3 ~~relieve a person from an obligation to report and deliver~~
4 ~~property to a State in which the holder is domiciled.~~

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

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

14 (765 ILCS 1026/15-1009)

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

17 (a) The administrator may contract with a person to conduct
18 an examination under this Article. The contract shall be
19 awarded pursuant to a request for proposals issued in
20 compliance with the procurement rules of the administrator.

21 (b) If the administrator contracts with a person under
22 subsection (a):

23 (1) the contract may provide for compensation of the
24 person based on a fixed fee, or hourly fee, ~~or contingent~~
25 ~~fee;~~

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

5 (3) as authorized in the State Officers and Employees
6 Money Disposition Act, the administrator may permit the
7 deduction of fees from property recovered during an
8 examination under this Article prior to depositing funds
9 received under this Act into the Unclaimed Property Trust
10 Fund.

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

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

14 (765 ILCS 1026/15-1503)

15 Sec. 15-1503. Transitional provision.

16 (a) (Blank). ~~An initial report filed under this Act for~~
17 ~~property that was not required to be reported before the~~
18 ~~effective date of this Act, but that is required to be reported~~
19 ~~under this Act, must include all items of property that would~~
20 ~~have been presumed abandoned during the 5-year period preceding~~
21 ~~the effective date of this Act as if this Act had been in~~
22 ~~effect during that period.~~

23 (b) This Act does not relieve a holder of a duty that arose
24 before the effective date of this Act to report, pay, or
25 deliver property. A ~~Subject to subsection (b) of Section~~

1 ~~15-610,~~ a holder that did not comply with the law governing
2 unclaimed property before the effective date of this Act is
3 subject to applicable provisions for enforcement and penalties
4 in effect before the effective date of this Act.

5 (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