



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB1391

Introduced 2/9/2005, by Rep. Daniel J. Burke - Angelo Saviano

#### SYNOPSIS AS INTRODUCED:

|                       |                        |
|-----------------------|------------------------|
| 765 ILCS 1025/3a new  |                        |
| 765 ILCS 1025/11      | from Ch. 141, par. 111 |
| 765 ILCS 1025/12      | from Ch. 141, par. 112 |
| 30 ILCS 105/5.640 new |                        |
| 30 ILCS 105/8h        |                        |
| 30 ILCS 105/8j        |                        |

Amends the Uniform Disposition of Unclaimed Property Act. Provides that funds and stock distributable in the course of a demutualization, rehabilitation, or related reorganization of an insurance company shall be deemed abandoned in the listed time frames. Provides that funds and stock deemed abandoned in the course of a demutualization, rehabilitation, or related reorganization of an insurance company shall be held in the Demutualization Trust Fund. Provides that the State Treasurer shall set a date that the required report and remittance of the funds and stock deemed abandoned in the course of a demutualization, rehabilitation, or related reorganization of an insurance company shall be filed. Provides that the names of owners that are identified and contacted directly by the State Treasurer do not have to be published as required under the notice requirements. Amends the State Finance Act. Creates the Demutualization Trust Fund. Exempts the Demutualization Trust Fund from transfers to the General Revenue Fund. Effective immediately.

LRB094 08950 LCB 39170 b

FISCAL NOTE ACT  
MAY APPLY

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 Uniform Disposition of Unclaimed Property  
5 Act is amended by changing Sections 11 and 12 and by adding  
6 Section 3a as follows:

7 (765 ILCS 1025/3a new)

8 Sec. 3a. Demutualization; insurance company.

9 (a) Property distributable in the course of a  
10 demutualization, rehabilitation, or related reorganization of  
11 an insurance company shall be deemed abandoned as follows:

12 (1) any funds, 2 years after the date of the  
13 demutualization, rehabilitation, or reorganization, if the  
14 funds remain unclaimed, and the owner has not otherwise  
15 communicated with the holder or its agent regarding the  
16 property as evidenced by a memorandum or other record on  
17 file with the holder or its agent;

18 (2) any stock, 2 years after the date of the  
19 demutualization, rehabilitation, or reorganization if  
20 instruments or statements reflecting the distribution are  
21 either mailed to the owner and returned by the post office  
22 as undeliverable, or not mailed to the owner because of an  
23 address on the books and records of the holder that is  
24 known to be incorrect, and the owner has not otherwise  
25 communicated with the holder or its agent regarding the  
26 property as evidenced by a memorandum or other record on  
27 file with the holder or its agent; and

28 (b) Property subject to items (1) and (2) of subsection (a)  
29 of this Section shall be set apart and held in the  
30 Demutualization Trust Fund, a special non-appropriated fund  
31 hereby created in the State treasury, for the payment of claims  
32 and expenses associated with the processing of the claims by

1 the State Treasurer and shall not be transferred to any other  
2 fund until such time as the property would be reportable under  
3 other Sections of this Act. The Demutualization Trust Fund  
4 shall not be subject to Section 8h or 8j of the State Finance  
5 Act.

6 (c) Property not subject to the provisions of subsection  
7 (a), within 2 years of distribution shall remain reportable  
8 under other Sections of this Act.

9 (765 ILCS 1025/11) (from Ch. 141, par. 111)

10 Sec. 11. Report of holder.

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

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

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

27 (2) in case of unclaimed funds of life insurance  
28 corporations the full name of the insured and any  
29 beneficiary or annuitant and the last known address  
30 according to the life insurance corporation's records;

31 (3) the date when the property became payable,  
32 demandable, or returnable, and the date of the last  
33 transaction with the owner with respect to the property;  
34 and

35 (4) other information which the State Treasurer

1 prescribes by rule as necessary for the administration of  
2 this Act.

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

8 (d) The report and remittance of the property specified in  
9 the report shall be filed by banking organizations, financial  
10 organizations, insurance companies other than life insurance  
11 corporations, and governmental entities before November 1 of  
12 each year as of June 30 next preceding. The report and  
13 remittance of the property specified in the report shall be  
14 filed by business associations, utilities, and life insurance  
15 corporations before May 1 of each year as of December 31 next  
16 preceding. The Director may postpone the reporting date upon  
17 written request by any person required to file a report. The  
18 report and remittance of the property specified in the report  
19 for property subject to subsection (a) of Section 3a of this  
20 Act shall be filed before a date established by the State  
21 Treasurer that is no sooner than 30 days after the effective  
22 date of this amendatory Act of the 94th General Assembly.

23 (d-5) Notwithstanding the foregoing, currency exchanges  
24 shall be required to report and remit property specified in the  
25 report within 30 days after the conclusion of its annual  
26 examination by the Department of Financial Institutions. As  
27 part of the examination of a currency exchange, the Department  
28 of Financial Institutions shall instruct the currency exchange  
29 to submit a complete unclaimed property report using the State  
30 Treasurer's formatted diskette reporting program or an  
31 alternative reporting format approved by the State Treasurer.  
32 The Department of Financial Institutions shall provide the  
33 State Treasurer with an accounting of the money orders located  
34 in the course of the annual examination including, where  
35 available, the amount of service fees deducted and the date of  
36 the conclusion of the examination.

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

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

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

22 (h) (1) Records pertaining to presumptively abandoned  
23 property held by a trust division or trust department or by a  
24 trust company, or affiliate of any of the foregoing that  
25 provides nondealer corporate custodial services for securities  
26 or securities transactions, organized under the laws of this or  
27 another state or the United States shall be retained until the  
28 property is delivered to the State Treasurer.

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

34 (2) In the case of all other holders commencing on the  
35 effective date of this amendatory Act of 1993, property records  
36 for the period required for presumptive abandonment plus the 9

1 years immediately preceding the beginning of that period shall  
2 be retained for 5 years after the property was reportable.

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

6 (j) Other than the Notice to Owners required by Section 12  
7 and other discretionary means employed by the State Treasurer  
8 for notifying owners of the existence of abandoned property,  
9 the State Treasurer shall not disclose any information provided  
10 in reports filed with the State Treasurer or any information  
11 obtained in the course of an examination by the State Treasurer  
12 to any person other than governmental agencies for the purposes  
13 of returning abandoned property to its owners or to those  
14 individuals who appear to be the owner of the property or  
15 otherwise have a valid claim to the property, unless written  
16 consent from the person entitled to the property is obtained by  
17 the State Treasurer.

18 (Source: P.A. 92-271, eff. 8-7-01; 93-531, eff. 8-14-03.)

19 (765 ILCS 1025/12) (from Ch. 141, par. 112)

20 Sec. 12. Notice to owners.

21 (a) For property reportable by May 1, as identified by  
22 Section 11, the State Treasurer shall cause notice to be  
23 published once in an English language newspaper of general  
24 circulation in the county in this State in which is located the  
25 last known address of any person to be named in the notice on  
26 or before November 1 of the same year. For property reportable  
27 by November 1, as identified by Section 11, the State Treasurer  
28 shall cause notice to be published once in an English language  
29 newspaper of general circulation in the county in this State in  
30 which is located the last known address of any person named in  
31 the notice on or before May 1 of the next year. If no address is  
32 listed or if the address is outside this State, the notice  
33 shall be published in the county in which the holder of the  
34 abandoned property has his principal place of business within  
35 this State. However, if an out-of-state address is in a state

1 that is not a party to a reciprocal agreement with this State  
2 concerning abandoned property, the notice may be published in  
3 the Illinois Register. The names of owners that are identified  
4 and contacted directly by the State Treasurer do not have to be  
5 published as described in this Section.

6 (b) The published notice shall be entitled "Notice of Names  
7 of Persons Appearing to be Owners of Abandoned Property", and  
8 shall contain:

9 (1) The names in alphabetical order and last known  
10 addresses, if any, of persons listed in the report and  
11 entitled to notice within the county as hereinbefore  
12 specified.

13 (2) A statement that information concerning the amount  
14 or description of the property and the name and address of  
15 the holder may be obtained by any persons possessing an  
16 interest in the property by addressing an inquiry to the  
17 State Treasurer.

18 (3) A statement that the abandoned property has been  
19 placed in the custody of the State Treasurer to whom all  
20 further claims must thereafter be directed.

21 (c) The State Treasurer is not required to publish in such  
22 notice any item of less than \$100 or any item for which the  
23 address of the last known owner is in a state that has a  
24 reciprocal agreement with this State concerning abandoned  
25 property unless he deems such publication to be in the public  
26 interest.

27 (Source: P.A. 93-531, eff. 8-14-03.)

28 Section 10. The State Finance Act is amended by amending  
29 Sections 8h and 8j and by adding Section 5.640 as follows:

30 (30 ILCS 105/5.640 new)

31 Sec. 5.640. The Demutualization Trust Fund.

32 (30 ILCS 105/8h)

33 Sec. 8h. Transfers to General Revenue Fund.

1 (a) Except as provided in subsection (b), notwithstanding  
2 any other State law to the contrary, the Governor may, through  
3 June 30, 2007, from time to time direct the State Treasurer and  
4 Comptroller to transfer a specified sum from any fund held by  
5 the State Treasurer to the General Revenue Fund in order to  
6 help defray the State's operating costs for the fiscal year.  
7 The total transfer under this Section from any fund in any  
8 fiscal year shall not exceed the lesser of (i) 8% of the  
9 revenues to be deposited into the fund during that fiscal year  
10 or (ii) an amount that leaves a remaining fund balance of 25%  
11 of the July 1 fund balance of that fiscal year. In fiscal year  
12 2005 only, prior to calculating the July 1, 2004 final  
13 balances, the Governor may calculate and direct the State  
14 Treasurer with the Comptroller to transfer additional amounts  
15 determined by applying the formula authorized in Public Act  
16 93-839 to the funds balances on July 1, 2003. No transfer may  
17 be made from a fund under this Section that would have the  
18 effect of reducing the available balance in the fund to an  
19 amount less than the amount remaining unexpended and unreserved  
20 from the total appropriation from that fund estimated to be  
21 expended for that fiscal year. This Section does not apply to  
22 any funds that are restricted by federal law to a specific use,  
23 to any funds in the Motor Fuel Tax Fund, the Hospital Provider  
24 Fund, the Medicaid Provider Relief Fund, or the Reviewing Court  
25 Alternative Dispute Resolution Fund, or to any funds to which  
26 subsection (f) of Section 20-40 of the Nursing and Advanced  
27 Practice Nursing Act applies. Notwithstanding any other  
28 provision of this Section, for fiscal year 2004, the total  
29 transfer under this Section from the Road Fund or the State  
30 Construction Account Fund shall not exceed the lesser of (i) 5%  
31 of the revenues to be deposited into the fund during that  
32 fiscal year or (ii) 25% of the beginning balance in the fund.  
33 For fiscal year 2005 through fiscal year 2007, no amounts may  
34 be transferred under this Section from the Road Fund, the State  
35 Construction Account Fund, the Criminal Justice Information  
36 Systems Trust Fund, the Wireless Service Emergency Fund, or the



1 Mandatory Arbitration Fund.

2 In determining the available balance in a fund, the  
3 Governor may include receipts, transfers into the fund, and  
4 other resources anticipated to be available in the fund in that  
5 fiscal year.

6 The State Treasurer and Comptroller shall transfer the  
7 amounts designated under this Section as soon as may be  
8 practicable after receiving the direction to transfer from the  
9 Governor.

10 (b) This Section does not apply to any fund established  
11 under the Community Senior Services and Resources Act.

12 (c) This Section does not apply to the Demutualization  
13 Trust Fund established under the Uniform Disposition of  
14 Unclaimed Property Act.

15 (Source: P.A. 93-32, eff. 6-20-03; 93-659, eff. 2-3-04; 93-674,  
16 eff. 6-10-04; 93-714, eff. 7-12-04; 93-801, eff. 7-22-04;  
17 93-839, eff. 7-30-04; 93-1054, eff. 11-18-04; 93-1067, eff.  
18 1-15-05.)

19 (30 ILCS 105/8j)

20 Sec. 8j. Allocation and transfer of fee receipts to General  
21 Revenue Fund. ~~If and only if any one or more of Senate Bills~~  
22 ~~774, 841, 842, and 1903 of the 93rd General Assembly become~~  
23 ~~law,~~ Notwithstanding any other law to the contrary, additional  
24 amounts generated by the new and increased fees created or  
25 authorized by Public Acts 93-22, 93-23, 93-24, and 93-32 ~~these~~  
26 ~~amendatory Acts of the 93rd General Assembly this amendatory~~  
27 ~~Act of the 93rd General Assembly and by Senate Bill 774, Senate~~  
28 ~~Bill 841, and Senate Bill 842 of the 93rd General Assembly, if~~  
29 ~~those bills become law,~~ shall be allocated between the fund  
30 otherwise entitled to receive the fee and the General Revenue  
31 Fund by the Governor's Office of Management and Budget Bureau  
32 ~~of the Budget~~. In determining the amount of the allocation to  
33 the General Revenue Fund, the Director of the Governor's Office  
34 of Management and Budget Bureau ~~of the Budget~~ shall calculate  
35 whether the available resources in the fund are sufficient to

1 satisfy the unexpended and unreserved appropriations from the  
2 fund for the fiscal year.

3 In calculating the available resources in a fund, the  
4 Director of the Governor's Office of Management and Budget  
5 ~~Bureau of the Budget~~ may include receipts, transfers into the  
6 fund, and other resources anticipated to be available in the  
7 fund in that fiscal year.

8 Upon determining the amount of an allocation to the General  
9 Revenue Fund under this Section, the Director of the Governor's  
10 Office of Management and Budget ~~Bureau of the Budget~~ may direct  
11 the State Treasurer and Comptroller to transfer the amount of  
12 that allocation from the fund in which the fee amounts have  
13 been deposited to the General Revenue Fund; provided, however,  
14 that the Director shall not direct the transfer of any amount  
15 that would have the effect of reducing the available resources  
16 in the fund to an amount less than the amount remaining  
17 unexpended and unreserved from the total appropriation from  
18 that fund for that fiscal year.

19 The State Treasurer and Comptroller shall transfer the  
20 amounts designated under this Section as soon as may be  
21 practicable after receiving the direction to transfer from the  
22 Director of the Governor's Office of Management and Budget  
23 ~~Bureau of the Budget~~.

24 This Section does not apply to the Demutualization Trust  
25 Fund established under the Uniform Disposition of Unclaimed  
26 Property Act.

27 (Source: P.A. 93-25, eff. 6-20-03; 93-32, eff. 6-20-03; revised  
28 8-21-03.)

29 Section 99. Effective date. This Act takes effect upon  
30 becoming law.