



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB0384

Introduced 2/15/2005, by Sen. Terry Link

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 08295 LCB 38486 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.