



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB0536

Introduced 2/8/2007, by Sen. Kwame Raoul

#### SYNOPSIS AS INTRODUCED:

765 ILCS 1025/8.3 new

Amends the Uniform Disposition of Unclaimed Property Act. Provides that an attorney (or an attorney's representative or guardian) who certifies that he or she has been unable to locate a testator after a diligent search may deposit the testator's will with the State Treasurer. Requires the State Treasurer to: index, store, and perform other duties with respect to deposited wills; deliver the will to the testator or a designee or to a person specified in a court order; deliver the will to a court upon being notified of the death of the testator; and respond to inquiries regarding the will under specified circumstances. Contains provisions regarding fees, destruction of wills, immunity, and other matters.

LRB095 04882 AJO 24946 b

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 adding Section 8.3 as follows:

6 (765 ILCS 1025/8.3 new)

7 Sec. 8.3. Deposit of wills.

8 (a) Deposit of Wills. A depositor, as defined in subsection  
9 (d), may deposit a will with the State Treasurer if the  
10 depositor certifies in writing to the State Treasurer that he  
11 or she is unable to locate the testator after a diligent  
12 search. This Section applies whether it is known or unknown  
13 whether the testator is living.

14 (b) Assumptions. The State Treasurer may assume, without  
15 inquiring into the facts, that the depositor has first made a  
16 diligent search for the testator.

17 (c) Fee. The State Treasurer shall collect a fee of \$25 for  
18 each deposit of a will. The State Treasurer shall not collect a  
19 separate fee for additional documents concurrently deposited  
20 in relation to a single testator or for a single joint will  
21 prepared for a husband and wife.

22 (d) Definitions. As used in this Section:

23 "Depositor" means an attorney licensed or formerly

1 licensed to practice in the State of Illinois, the attorney's  
2 representative, the guardian for the attorney, or the personal  
3 representative of the attorney's decedent's estate;

4 "Testator" means a person who executed a will, other than  
5 as a witness or official to whom acknowledgment of signing was  
6 given;

7 "Will" refers to an original:

8 (1) will;

9 (2) codicil;

10 (3) will and one or more codicils;

11 (4) trust; or

12 (5) trust and one or more trust amendments.

13 (e) Duty of State Treasurer upon receipt. Upon receipt of a  
14 will under this Section, the State Treasurer shall:

15 (1) provide the depositor with a receipt for the will,  
16 which receipt shall contain the information designated on  
17 the envelope per paragraph (3) of this subsection;

18 (2) place the will or wills deposited concurrently in  
19 relation to a single testator in one envelope and seal the  
20 envelope securely in the presence of the depositor or  
21 depositor's agent;

22 (3) designate on the envelope:

23 (A) the date of deposit;

24 (B) the name, address, and telephone number of the  
25 depositor;

26 (C) the name and last known address of the

1 testator;

2 (D) at the depositor's option, any and all of the  
3 following information:

4 (i) alternate names by which the testator may  
5 have been known;

6 (ii) the testator's birth date, and

7 (iii) the last 4 digits of the testator's  
8 Social Security number;

9 (E) with respect to each document enclosed:

10 (i) a short description of the document,  
11 including, if shown, its date of execution; and

12 (ii) the number of pages in the document; and

13 (4) index the will alphabetically by the name of the  
14 testator, and by the alternate names set forth by which the  
15 testator may have been known.

16 (f) Status as a public record. An envelope and will  
17 deposited under this Section is not a public record.

18 (g) Duty of State Treasurer during testator's lifetime.

19 During the testator's lifetime, the State Treasurer shall:

20 (1) keep the envelope containing the will sealed; and

21 (2) deliver the envelope to:

22 (i) the testator;

23 (ii) a person authorized, in a writing signed by  
24 the testator and notarized, to receive the envelope; or

25 (iii) a person, entity, court, or government  
26 agency authorized to receive the envelope pursuant to

1 an order entered by a court of competent jurisdiction;

2 (h) Duty of State Treasurer upon notification of death of  
3 testator. If the State Treasurer has custody of the will after  
4 the death of the testator and is notified of the death of the  
5 testator by means of a certified copy of the medical or  
6 coroner's certificate of death or by a certified copy of an  
7 order of court determining the testator to be deceased, upon  
8 receipt of payment of a retrieval fee in the amount of \$10, the  
9 State Treasurer shall deliver the sealed will envelope to the  
10 court that has jurisdiction of the administration of the  
11 decedent's estate within 30 days of receiving notification of  
12 the testator's death. If there is any doubt as to whom a will  
13 should be delivered, the State Treasurer, or any other person,  
14 may apply to the circuit court having jurisdiction over the  
15 testator's estate for directions as to whom the State Treasurer  
16 should deliver the will.

17 (i) Duties of State Treasurer upon inquiry. Upon inquiry by  
18 a person identified in paragraph (2) of subsection (g), or upon  
19 inquiry of any person presenting a certified copy of a medical  
20 or coroner's certificate of death of the testator or a  
21 certified copy of an order of a court determining the testator  
22 to be deceased, the State Treasurer shall inform the person  
23 whether the name of the relevant testator appears in the State  
24 Treasurer's index of wills. For the purposes of this  
25 subsection, the State Treasurer need not be certain that the  
26 testator is the one being inquired about, but may release that

1 information if it is possible that the testator is that one.

2 (j) Destruction of will. The State Treasurer may destroy a  
3 will deposited under this Section if:

4 (1) the State Treasurer has not received notice of the  
5 death of the testator; and

6 (2) at least 100 years have passed since the date the  
7 will was deposited.

8 (k) Immunity. A depositor who complies with this Section is  
9 immune from civil liability for depositing the will unless the  
10 depositor does so with willful and wanton conduct.