

SHORT TITLE: Uniform Unclaimed Property Act; reducing certain time periods for presumption of abandonment. Emergency.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1376

By: Mickle

AS INTRODUCED

An Act relating to property; amending 60 O.S. 1991, Sections 651.1, 651.2, 652, 653, 655, 656, 657.1, 657.3, and 658, which relate to the Uniform Unclaimed Property Act; reducing certain time periods for presumption of abandonment; updating language; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 60 O.S. 1991, Section 651.1, is amended to read as follows:

Section 651.1 ~~(a)~~ A. Subject to subsection ~~(d)~~ D of this section and except as hereinafter provided, any sum payable on a travelers check that has been outstanding for more than ~~fifteen (15)~~ seven (7) years after its issuance is presumed abandoned unless the owner, within ~~fifteen (15)~~ seven (7) years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer. No travelers check shall be presumed to be abandoned if the holder has sent a statement or other business communication concerning the travelers check to the owner by first-class mail and the statement or other business communication has not been returned for inability to make delivery to the addressee. The ~~fifteen-year~~ seven-year abandonment period shall begin to run when any statement or other business

communication to the owner has been returned as undeliverable, or on the last date that the owner has communicated with the holder in any of the ways specified in this subsection, whichever is later. For purposes of this section, the issuer shall be the entity responsible for the payment of the travelers check.

~~(b)~~ B. Subject to subsection ~~(d)~~ D of this section, any sum payable on a money order or similar written instrument, other than a third-party bank check, that has been outstanding for more than ~~seven (7)~~ five (5) years after its issuance is presumed abandoned unless the owner, within ~~seven (7)~~ five (5) years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

~~(c)~~ C. A holder may not deduct from the amount of a travelers check or money order any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the issuer and the owner of the instrument pursuant to which the issuer may impose a charge and the issuer regularly imposes such charges and does not regularly reverse or otherwise cancel them.

~~(d)~~ D. No sum payable on a travelers check, money order, or similar written instrument, other than a third-party check, described in subsections ~~(a)~~ A and ~~(b)~~ B of this section may be subjected to the custody of this state as unclaimed property unless:

~~(1)~~ the 1. The records of the issuer show that the travelers check, money order, or similar written instrument was purchased in this state;

~~(2)~~ the 2. The issuer has its principal place of business in this state and the records of the issuer do not show the state in which the travelers check, money order, or similar written instrument was purchased; or

~~(3)~~ the 3. The issuer has its principal place of business in this state, the records of the issuer show the state in which the travelers check, money order, or similar written instrument was purchased and the laws of the state of purchase either do not provide for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

~~(e)~~ E. Notwithstanding any other provisions of this act, subsection ~~(d)~~ D of this section applies to sums payable on travelers checks, money orders, and similar written instruments presumed abandoned on or after February 1, 1965, except to the extent that those sums have been paid over to a state prior to January 1, 1974.

SECTION 2. AMENDATORY 60 O.S. 1991, Section 651.2, is amended to read as follows:

Section 651.2 Any sum payable on a check, certified check, cashier's check, draft, or similar instrument, except those subject to Section 651.1 of this title, on which a banking or financial organization is directly liable, which has been outstanding for more than ~~five (5)~~ three (3) years after it was payable or after its issuance if payable on demand, is presumed abandoned, unless the owner, within ~~five (5)~~ three (3) years, has communicated in writing with the banking or financial organization concerning it or otherwise indicated an interest as evidenced by a memorandum or other record, on file, prepared by an employee thereof.

SECTION 3. AMENDATORY 60 O.S. 1991, Section 652, is amended to read as follows:

Section 652. ~~(a)~~ A. Any demand, savings, or matured time deposit with a banking or financial organization, and any funds paid toward the purchase of a share, a mutual investment certificate, or any other interest in a banking or financial organization is presumed abandoned, unless the owner, within ~~five (5)~~ three (3) years has:

~~(1) in~~ 1. In the case of a deposit, increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest;

~~(2) communicated~~ 2. Communicated in writing with the banking or financial organization concerning the property;

~~(3) otherwise~~ 3. Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization;

~~(4) owned~~ 4. Owned other property to which ~~paragraphs (1)~~ paragraph 1, ~~(2)~~ 2, or ~~(3)~~ 3 of this subsection applies and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed abandoned under this subsection at the address to which communications regarding the other property are regularly sent; or

~~(5) had~~ 5. Had another relationship with the banking or financial organization concerning which the owner has:

~~(A)~~ a. communicated in writing with the banking or financial organization; ~~or~~

~~(B)~~ b. otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be abandoned under this subsection at the address to which communications regarding the other relationship regularly are sent.

If a banking or financial organization has sent a statement or other business communication concerning such property to the owner by first-class mail and the statement or other business communication has not been returned for inability to make delivery to the addressee, the property shall not be presumed to be abandoned. The ~~five-year~~ three-year abandonment period shall begin

to run when any statement or other business communication to the owner has been returned as undeliverable, or on the last date that the owner has communicated with the banking or financial organization in any of the ways specified in paragraphs ~~(1)~~ 1 through ~~(5)~~ 5 of this subsection, whichever is the later.

~~(b)~~ B. For purposes of subsection ~~(a)~~ A of this section property includes interest and dividends.

~~(e)~~ C. A holder may not impose with respect to property described in subsection ~~(a)~~ A of this section any charge due to dormancy or inactivity or cease payment of interest unless:

~~(1)~~ reasonable 1. Reasonable notice that the holder may impose the charge or cease payment of interest is given to the owner of the property, either:

~~(A)~~ a. at the time the account is opened,

~~(B)~~ b. through a schedule of charges sent to the owner of the property, or

~~(C)~~ c. through a statement in the rules, regulations, or bylaws of the holder that the holder may impose the charge or cease payment of interest; and

~~(2)~~ the 2. The holder regularly imposes such charges or ceases payment of interest. If the holder regularly reverses or otherwise cancels such charges or retroactively credits interest for a reason other than an error or omission by the holder, then in proportion to the extent that it does so with respect to other deposits, the holder shall likewise reverse or otherwise cancel charges or retroactively credit interest with respect to property that is reported to the Commission as unclaimed under this act.

~~(d)~~ D. Automatically renewable time deposits shall be subject to this section, except that said automatically renewable time deposits shall be presumed abandoned fifteen (15) years following the expiration of the initial time period of the time deposit unless, during that period the owner has:

~~(1) increased~~ 1. Increased or decreased the amount of the deposit;

~~(2) communicated~~ 2. Communicated in writing with the banking or financial organization concerning the property;

~~(3) otherwise~~ 3. Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization; and

~~(4) had~~ 4. Had another relationship with the banking or financial organization concerning which the owner has:

~~(A) a.~~ a. communicated in writing with the banking or financial organization, or

~~(B) b.~~ b. otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed abandoned under this section at the address to which communications regarding the other relationship are regularly sent.

Upon presumed abandonment of the automatically renewable time deposit, the holder shall report the presumed abandonment to the Oklahoma Tax Commission and may, at the holder's option, either retain the property or pay or deliver it to the Commission.

SECTION 4. AMENDATORY 60 O.S. 1991, Section 653, is amended to read as follows:

Section 653. ~~(a) A.~~ A. Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than ~~five~~ ~~(5)~~ three (3) years after the funds became due and payable as established from the records of the insurance company holding or owing the funds, but property described in paragraph ~~(2)~~ 2 of

subsection ~~(e)~~ C of this section is presumed abandoned if unclaimed for more than two (2) years.

~~(b)~~ B. If a person other than the insured or annuitant is entitled to the funds and an address of the person is not known to the company or it is not definite and certain from the records who is entitled to the funds, it is presumed that the last-known address of the person entitled to the funds is the same as the last-known address of the insured or annuitant according to the records of the company.

~~(e)~~ C. For purposes of this act, a life or endowment insurance policy or annuity contract not matured by actual proof of death of the insured according to the records of the company is matured and the proceeds due and payable if:

~~(1)~~ ~~the~~ 1. The company knows that the insured or annuitant has died; or ~~(2)~~ ~~(A)~~

2. a. the insured has attained, or would have attained if ~~he~~ the insured were living, the limiting age under the mortality table on which the reserve is based~~;~~;

~~(B)~~ b. the policy was in force at the time the insured attained, or would have attained, the limiting age specified in subparagraph ~~(A)~~ a of this paragraph~~;~~; and

~~(C)~~ c. neither the insured nor any person appearing to have an interest in the policy within the preceding two (2) years, according to the records of the company, has assigned, readjusted, or paid premiums on the policy, subjected the policy to loan, or corresponded in writing with the company concerning the policy, or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the company.

~~(d)~~ D. For purposes of this act, the application of an automatic premium loan provision or other nonforfeiture provisions contained in an insurance policy does not prevent a policy from being matured or terminated under subsection ~~(a)~~ A of this section if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds thereof before the depletion of the cash surrender value of a policy by the application of those provisions.

~~(e)~~ E. If the laws of this state or the terms of the life insurance policy require the company to give notice to the insured or the owner that an automatic premium loan provision or other nonforfeiture provision has been exercised and the notice, given to an insured or owner whose last-known address according to the records of the company is in this state, is undeliverable, the company shall make a reasonable search to ascertain the policyholder's correct address to which the notice must be mailed.

~~(f)~~ F. Notwithstanding any other provision of law, if the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within four (4) months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

~~(g)~~ ~~Commencing two (2) years after the effective date of this act, every~~ G. Every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of the state must request the following information:

~~(1)~~ ~~the~~ 1. The name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class;

~~(2)~~ ~~the~~ 2. The address of each beneficiary; and

~~(3)~~ ~~the~~ 3. The relationship of each beneficiary to the insured.

SECTION 5. AMENDATORY 60 O.S. 1991, Section 655, is amended to read as follows:

Section 655. ~~(a)~~ A. Except as otherwise provided in subsections ~~(b)~~ B and ~~(e)~~ E of this section, stock or other intangible ownership interest in a business association, the existence of which is evidenced by records available to the association, is presumed abandoned and, with respect to the interest, the association is the holder, if a dividend, distribution, or other money payable as a result of the interest has remained unclaimed by the owner for ~~seven~~ ~~(7)~~ five (5) years and the owner within ~~seven~~ ~~(7)~~ five (5) years has not:

~~(1)~~ ~~communicated~~ 1. Communicated in writing with the association regarding the interest or a dividend, distribution, or other money payable as a result of the interest; or

~~(2)~~ ~~otherwise~~ 2. Otherwise communicated with the association regarding the interest or a dividend, distribution, or other money payable as a result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association.

~~(b)~~ B. At the expiration of a ~~seven-year~~ five-year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at least ~~seven~~ ~~(7)~~ five (5) dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If ~~seven~~ ~~(7)~~ five (5) dividends, distributions, or other sums are paid during the ~~seven-year~~ five-year period, the period leading to a presumption of abandonment commences on the date payment of the first ~~such~~ unclaimed dividend, distribution, or other sum became due and payable. If ~~seven~~ ~~(7)~~ five (5) dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been ~~seven~~ ~~(7)~~

five (5) dividends, distributions, or other sums that have not been claimed by the owner.

~~(c)~~ C. The running of the ~~seven-year~~ five-year period of abandonment ceases immediately upon the occurrence of a communication described in subsection ~~(a)~~ A of this section. If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time a subsequent dividend, distribution, or other sum became due and payable.

~~(d)~~ D. At the time an interest is presumed abandoned under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously presumed abandoned, is presumed abandoned.

~~(e)~~ E. A stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest shall be subject to this section, except that the period of abandonment shall be fifteen (15) years. Such property shall not be presumed to be abandoned if the holder has sent a statement or other business communication concerning such property to the owner by first-class mail and the statement or other business communication has not been returned for inability to make delivery to the addressee. The fifteen-year abandonment period shall begin to run when any statement or other business communication to the owner has been returned as undeliverable, or on the last date that the owner has communicated with the holder in any of the ways specified in subsection ~~(a)~~ A of this section, whichever is the later. If, at the time provided for delivery in Section 663 of this title, any penalty or forfeiture in the payment of dividends, distributions, or other sums payable as a result of the property would result from its

delivery to the Commission, the time for delivery shall be extended until the time when no penalty or forfeiture would result.

~~(f)~~ F. This act shall not apply to patronage dividends, capital credits, customer deposits or non-negotiated payment checks held or owing by cooperative electric power or telephone associations organized under Sections 437 and 438.1 of Title 18 of the Oklahoma Statutes; rural water, sewer, gas and solid waste management districts organized under Section 1324.1 of Title 82 of the Oklahoma Statutes; or agricultural cooperative marketing or supply associations organized under Section 361 of Title 2 of the Oklahoma Statutes; when such associations are domiciled in Oklahoma.

SECTION 6. AMENDATORY 60 O.S. 1991, Section 656, is amended to read as follows:

Section 656. ~~(a)~~ A. Intangible property and any income or increment derived therefrom held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner, within ~~seven (7)~~ five (5) years after it has become payable or distributable, has increased or decreased the principal, accepted payment of principal or income, communicated concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary.

~~(b)~~ B. Funds in an individual retirement account or a retirement plan for self-employed individuals or similar account or plan established under the Internal Revenue laws of the United States are not payable or distributable within the meaning of subsection ~~(a)~~ A of this section unless, under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.

~~(c)~~ C. For the purpose of this section, a person who holds property as an agent for a business association is deemed to hold the property in a fiduciary capacity for that business association

alone, unless the agreement between ~~him~~ the person who holds the property and the business association provides otherwise.

~~(d)~~ D. For the purposes of this act, a person who is deemed to hold property in a fiduciary capacity for a business association alone is the holder of the property only insofar as the interest of the business association in the property is concerned, and the business association is the holder of the property insofar as the interest of any other person in the property is concerned.

SECTION 7. AMENDATORY 60 O.S. 1991, Section 657.1, is amended to read as follows:

Section 657.1 ~~(a)~~ A. A credit memo issued in the ordinary course of an issuer's business which has a value of more than Fifty Dollars (\$50.00) and remains unclaimed by the owner for more than ~~five (5)~~ three (3) years after becoming payable or distributable is presumed abandoned.

~~(b)~~ B. With regard to a credit memo, the amount presumed abandoned is the amount credited to the recipient of the memo. In applying the Fifty Dollar (\$50.00) limitation, individual credit memos to the same owner shall not be aggregated.

SECTION 8. AMENDATORY 60 O.S. 1991, Section 657.3, is amended to read as follows:

Section 657.3 All tangible and intangible personal property held in a safe deposit box or other safekeeping repository in this state in the ordinary course of the holder's business and proceeds resulting from the sale of the property permitted by other law, which remain unclaimed by the owner for more than ~~five (5)~~ three (3) years after the lease or rental period on the box or other repository has expired, are presumed abandoned.

SECTION 9. AMENDATORY 60 O.S. 1991, Section 658, is amended to read as follows:

Section 658. ~~(a)~~ A. Except as otherwise provided by this act, all intangible personal property, including income or increment

derived from the property, less any lawful charges, that is held, issued, or owing in the ordinary course of a holder's business and has remained unclaimed by the owner for more than ~~five (5)~~ three (3) years after becoming payable or distributable is presumed abandoned.

~~(b)~~ B. Property is payable or distributable for the purposes of this act notwithstanding the owner's failure to demand the property or to present an instrument or document required to receive payment of the property.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-2-2388

KSM