

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1663

By: Gumm of the Senate

and

Liotta of the House

COMMITTEE SUBSTITUTE

(property and public finance - modifying provisions -
Uniform Unclaimed Property Act - investments - bonds -
effective date)

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

SECTION 1. AMENDATORY 60 O.S. 2001, Section 653, is amended to read as follows:

Section 653. (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) 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) of subsection (c) of this section is presumed abandoned if unclaimed for more than two (2) years.

(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.

(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 company knows that the insured or annuitant has died; or
- (2) (A) the insured has attained, or would have attained if he were living, the limiting age under the mortality table on which the reserve is based;
(B) the policy was in force at the time the insured attained, or would have attained, the limiting age specified in subparagraph (A) of this paragraph; and
(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) 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) 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) 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) 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~~ 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~~ shall include, but not be limited to:

- (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 address of each beneficiary; ~~and~~
- (3) the relationship of each beneficiary to the insured;

(h) With respect to any funds held or owing under any life or endowment insurance policy or annuity contract presumed abandoned pursuant to this section or property distributable in the course of a demutualization or reorganization of an insurance company pursuant to Section 653.1 of this title, the insurance company holding or owing such funds shall provide any information reasonably requested

by the State Treasurer, if such information is reasonably available,
to assist the State Treasurer in its consideration of a claim
pursuant to Section 675 of this title.

SECTION 2. AMENDATORY 60 O.S. 2001, Section 661, as amended by Section 6, Chapter 224, O.S.L. 2003 (60 O.S. Supp. 2005, Section 661), is amended to read as follows:

Section 661. A. A person holding property, tangible or intangible, presumed abandoned and subject to custody as unclaimed property under the Uniform Unclaimed Property Act shall report to the State Treasurer concerning the property as provided in this section.

B. The report must be verified and must include:

1. The name, if known, and last-known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of Fifty Dollars (\$50.00) or more presumed abandoned under the Uniform Unclaimed Property Act;

2. In the case of unclaimed funds of Fifty Dollars (\$50.00) or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last-known address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds;

3. In the case of the contents of a safe deposit box or other safekeeping repository or of other tangible personal property, a description of the property and the place where it is held, which may be inspected by the State Treasurer, and any amounts, including offsets for drilling costs and rent, owing to the holder;

4. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under Fifty Dollars (\$50.00) each must be reported in the aggregate, except property which is one of a recurring number of continuous payments, including, but not limited to, royalties, annuities, dividends, distributions, and other sums

presumed abandoned pursuant to subsection D of Section 655 of this title, all of which shall be reported in the same manner as property with a value of Fifty Dollars (\$50.00) or more;

5. The date when the property became payable, demandable or returnable, and the date of the last transaction with the owner with respect to the property; ~~and~~

6. In the case of a cashier's check, if known, the names and last-known addresses of the payee(s), the payor(s) and the purchaser(s); and

7. Any other information reasonably required by the Treasurer.

C. If the person holding property presumed abandoned and subject to custody as unclaimed property is a successor to other persons who previously held the property for the apparent owner or if the name of the holder has changed while holding the property, the holder shall file with the report all known names and addresses of each previous holder of the property.

D. The report must be filed before November 1 of each year for property reportable as of the preceding September 1, but the report of any life insurance company must be filed before May 1 of each year for property reportable as of the preceding March 1. The State Treasurer may postpone the reporting date upon written request by any person required to file a report.

E. Not more than one hundred twenty (120) days before filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under the Uniform Unclaimed Property Act shall send written notice to the apparent owner at the owner's last-known address informing the owner that the holder is in possession of property subject to the Uniform Unclaimed Property Act if:

1. The holder has in the records of the holder an address for the apparent owner which the holder's records do not disclose to be inaccurate;

2. The claim of the apparent owner is not barred by the statute of limitations; and

3. The property has a value of Fifty Dollars (\$50.00) or more, or the property has a value of less than Fifty Dollars (\$50.00) reportable pursuant to paragraph 4 of subsection B of this section. The holder is not required to send written notice to the owner if the holder has previously attempted to communicate with the owner, or otherwise exercised due diligence to ascertain the whereabouts of the owner. The mailing of notice by first-class mail to the last-known address of the owner by the holder shall constitute compliance with this subsection and, if done, no further act on the part of the holder shall be necessary.

F. Reports filed by a holder shall remain confidential except for that information required to be subject to public inspection pursuant to the Uniform Unclaimed Property Act.

SECTION 3. AMENDATORY 60 O.S. 2001, Section 677.1, is amended to read as follows:

Section 677.1 If the State Treasurer determines after investigation that any property delivered under the Uniform Unclaimed Property Act has insubstantial commercial value, the State Treasurer may destroy or otherwise dispose of the property at any time ~~as long as reasonable notice has been given to the holder~~. No action or proceeding may be maintained against the state or any officer or against the holder for or on account of any action taken by the State Treasurer pursuant to this section.

SECTION 4. AMENDATORY 62 O.S. 2001, Section 275.1, as amended by Section 17, Chapter 224, O.S.L. 2003 (62 O.S. Supp. 2005, Section 275.1), is amended to read as follows:

Section 275.1 All warrants or checks issued by the Oklahoma Public Welfare Commission and the State Treasurer, in payment of assistance to the needy, aged persons, blind or dependent children, shall be microfilmed or duplicated in a manner acceptable to the

Archives and Records Commission, by the Department of Human Services, provided further that the Department of Human Services is hereby authorized and directed to destroy said warrants, by burning, shredding, chemical process or any other method which will insure the complete destruction thereof, after microfilm or other copies are made thereof. Permanent microfilm or other copies of the warrants shall be maintained by the Department of Human Services. ~~In addition to a possible earlier destruction schedule for warrants that have been duplicated satisfactorily, any redeemed warrant may be destroyed seven (7) years after it is redeemed with the permission of the Archives and Records Commission~~ Any redeemed warrant or check that has been microfilmed, imaged or duplicated in a manner acceptable to the Archives and Records Commission shall be destroyed after a period of time consistent with banking industry standards for checks. The Archives and Records Commission, with the assistance of the State Treasurer, shall survey financial institutions to determine the industry standard for retention of paper checks after they have been duplicated in a manner consistent with federal law and industry practice. Such survey shall include the industry standard or federal law for retention of duplicated checks.

SECTION 5. AMENDATORY 62 O.S. 2001, Section 275.8, as amended by Section 19, Chapter 224, O.S.L. 2003 (62 O.S. Supp. 2005, Section 275.8), is amended to read as follows:

Section 275.8 All state bonds, bond interest coupons and duplicates of receipts redeemed by the State Treasurer and delivered to the Director of State Finance as provided by Section 41.19 of this title shall be delivered by the Director of State Finance to the Archives and Records Commission to be retained in accordance with the provisions of Sections 305 through 317 of Title 67 of the Oklahoma Statutes. All warrants or checks redeemed by the State Treasurer, ~~along with microfilm of the corresponding warrants or~~

~~other duplicates of the warrants acceptable to the Archives and Records Commission, shall be delivered microfilmed, imaged or duplicated by the State Treasurer to the Archives and Records Commission to be retained in accordance with the provisions of Sections 305 through 317 of Title 67 of the Oklahoma Statutes. The microfilm, image or other duplication shall be in accordance with requirements established for such records by the Archives and Records Commission. In addition to a possible earlier destruction schedule for warrants that have been duplicated satisfactorily, any redeemed warrant may be destroyed seven (7) years after it is redeemed with the permission of the Archives and Records Commission~~

Any redeemed warrant or check that has been microfilmed, imaged or duplicated in a manner acceptable to the Archives and Records Commission shall be destroyed after a period of time consistent with banking industry standards for checks. The Archives and Records Commission, with the assistance of the State Treasurer, shall survey financial institutions to determine the industry standard for retention of paper checks after they have been duplicated in a manner consistent with federal law and industry practice. Such survey shall include the industry standard or federal law for retention of duplicated checks.

No state agency may require the State Treasurer to furnish an original warrant, state check, or state voucher to the state agency if the State Treasurer makes a duplicate available. If the State Treasurer is in possession of the original warrant, the original may be furnished in response to the following:

1. A subpoena;
2. A proper discovery request in a legal proceeding;
3. For investigative purposes of a law enforcement agency; or
4. For other good cause as determined by the State Treasurer.

SECTION 6. AMENDATORY 62 O.S. 2001, Section 89.2, as last amended by Section 1, Chapter 134, O.S.L. 2004 (62 O.S. Supp. 2005, Section 89.2), is amended to read as follows:

Section 89.2 A. The State Treasurer is directed to invest the maximum amount of funds under control of the State Treasurer consistent with good business practices; provided that the Treasurer shall keep eighty percent (80%) or more of the money under control of the State Treasurer invested during each fiscal year based on the average daily balances during the fiscal year. Except as otherwise provided for by law, the investments shall earn not less than the rate for comparable maturities on United States Treasury obligations. Except as otherwise provided for by law, the State Treasurer may purchase and invest only in:

1. Obligations of the United States Government, its agencies and instrumentalities;

2. Collateralized or insured certificates of deposit and other evidences of deposit at banks, savings banks, savings and loan associations and credit unions located in this state;

3. Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings bank, a savings and loan association or a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit shall not exceed ten percent (10%) of the cash available for investment which may be invested pursuant to this section. Not more than one-half (1/2) of the ten percent (10%) limit shall be invested in any one financial institution specified in this paragraph;

4. Prime banker's acceptances which are eligible for purchase by the Federal Reserve System and which do not exceed two hundred seventy (270) days' maturity. Purchases of prime banker's acceptances shall not exceed ten percent (10%) of the cash available for investment which may be invested pursuant to this section. Not

more than three-fourths (3/4) of the ten percent (10%) limit shall be invested in any one commercial bank pursuant to this paragraph;

5. Prime commercial paper which shall not have a maturity that exceeds one hundred eighty (180) days nor represent more than ten percent (10%) of the outstanding paper of an issuing corporation. Purchases of prime commercial paper shall not exceed seven and one-half percent (7 1/2%) of the cash available for investment which may be invested pursuant to this section;

6. Investment grade obligations of state and local governments, including obligations of Oklahoma state public trusts which possess the highest rating from at least one nationally recognized rating agency acceptable to the State Treasurer. Purchases of investment grade obligations of state and local governments shall not exceed ten percent (10%) of the cash available for investment which may be invested pursuant to this section;

7. Repurchase agreements, provided that such agreements are included within the written investment policy required by subsection D of this section that have underlying collateral consisting of those items and those restrictions specified in paragraphs 1 through 6 of this subsection; ~~and~~

8. Money market funds and short term bond funds regulated by the Securities and Exchange Commission and which investments consist of those items and those restrictions specified in paragraphs 1 through 7 of this subsection; and

9. Bonds, notes, debentures or other similar obligations of a foreign government which the International Monetary Fund lists as an industrialized country and for which the full faith and credit of such nation has been pledged for the payment of principal and interest; provided, that any such security shall be rated at least A- or better by Standard & Poor's Corporation or A3 or better by Moody's Investors Service, or an equivalent investment grade by a securities ratings organization accepted by the National Association

of Insurance Commissioners; and provided further, that the total investment in such foreign securities at any one time shall not exceed five percent (5%) of the cash available for investment which may be invested pursuant to this section. In no circumstance shall investments be made in bonds, notes, debentures or any similar obligations of a foreign government that:

- a. is identified as a state sponsor of terrorism by the United States Department of State, or
- b. any authoritarian or totalitarian government the sovereign powers of which are exercised through a single person or group of persons who are not elected by any form of legitimate popular voting.

B. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

C. The State Treasurer shall appoint an investment officer who shall perform duties related to the investment of state funds in the Office of the State Treasurer. The investment officer shall not perform or supervise any accounting functions, data processing functions or duties related to the documentation or settlement of investment transactions.

D. Investments of public funds by the State Treasurer shall be made in accordance with written policies developed by the State Treasurer. The written investment policies shall address:

1. Liquidity;
2. Diversification;
3. Safety of principal;
4. Yield;
5. Maturity and quality; and

6. Capability of investment management.

The State Treasurer shall place primary emphasis on safety and liquidity in the investment of public funds. To the extent practicable taking into account the need to use sound investment judgment, the written investment policies shall include provision for utilization of a system of competitive bidding in the investment of state funds. The written investment policies shall be designed to maximize yield within each class of investment instrument, consistent with the safety of the funds invested.

E. The State Treasurer shall select one custodial bank to settle transactions involving the investment of state funds under the control of the State Treasurer. The State Treasurer shall review the performance of the custodial bank at least once every year. The State Treasurer shall require a written competitive bid every five (5) years. The custodial bank shall have a minimum of Five Hundred Million Dollars (\$500,000,000.00) in assets to be eligible for selection. Any out-of-state custodial bank shall have a service agent in the State of Oklahoma so that service of summons or legal notice may be had on such designated agent as is now or may hereafter be provided by law. In order to be eligible for selection, the custodial bank shall allow electronic access to all transaction and portfolio reports maintained by the custodial bank involving the investment of state funds under control of the State Treasurer. The access shall be given to both the State Treasurer and to the Cash Management and Investment Oversight Commission. The requirement for electronic access shall be incorporated into any contract between the State Treasurer and the custodial bank. Neither the State Treasurer nor the custodial bank shall permit any of the funds under the control of the State Treasurer or any of the documents, instruments, securities or other evidence of a right to be paid money to be located in any place other than within a

jurisdiction or territory under the control or regulatory power of the United States Government.

F. The investment policy shall specify the general philosophy, policies and procedures to be followed in the investment of state monies by the State Treasurer. The investment policy shall include, but not be limited to, the following:

1. Policy objectives;
2. Performance measure objectives;
3. Authority for investment program;
4. Possible use of an investment advisory committee;
5. Reporting and documentation of investments;
6. Authorized investment instruments;
7. Diversification of investment risk;
8. Maturity limitations;
9. Selections of financial institutions;
10. Interest controls;
11. Safekeeping of investments;
12. Investment ethics; and
13. Formal adoption of policy.

G. The State Treasurer shall provide weekly reports of all investments made by the State Treasurer for that week to the Executive Review Committee of the Cash Management and Investment Oversight Commission, and list any commissions, fees or payments made for services regarding such investments. The reports required by this subsection shall be delivered to the Committee within three (3) business days of the end of the applicable week, and the Committee shall communicate any facts or information it deems appropriate to the Cash Management and Investment Oversight Commission and shall also prepare all reports necessary for the quarterly meeting of the Commission.

H. Not later than July 1 of each year, the State Treasurer shall forward a copy of the written investment policy to the

Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Attorney General, the Bank Commissioner, and the Director of State Finance. In addition, the State Treasurer shall maintain one copy of the investment policy in the office of the State Treasurer for public inspection during regular business hours. Copies of any modifications to the investment policy shall be forwarded to the Governor, Speaker of the House of Representatives, President Pro Tempore of the Senate, and each member of the Cash Management and Investment Oversight Commission.

SECTION 7. This act shall become effective November 1, 2006.

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