STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 451 By: Gumm

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma State Treasurer; amending 60 O.S. 2001, Sections 655, 662, as amended by Section 7, Chapter 224, O.S.L. 2003, 663, as last amended by Section 4, Chapter 318, O.S.L. 2004, 667, as last amended by Section 5, Chapter 318, O.S.L. 2004, and 677, as amended by Section 8, Chapter 318, O.S.L. 2004 (60 O.S. Supp. 2004, Sections 662, 663, 667 and 677), which relate to the Uniform Unclaimed Property Act; deleting provisions and time periods for the presumption of property as abandoned; providing for a presumption of abandonment of stock and other equity interest, unmatured or unredeemed debt, matured or redeemed debt and associated property rights, under specified conditions and certain time period; providing condition under which stock or other intangible ownership interest automatically reinvested shall not be presumed unclaimed; providing for an end to specified time period; providing for the presumption of certain property or interests as unclaimed when held by a business association; modifying date, frequency and place of publication of certain notice; deleting exception to requirement for payment or delivery; modifying time period and criteria for sale of certain abandoned property; authorizing promulgation of rules by State Treasurer with respect to delivery of property; amending Section 6, Chapter 287, O.S.L. 2002, as amended by Section 16, Chapter 224, O.S.L. 2003 (62 O.S. Supp. 2004, Section 91.6), which relates to the Oklahoma Rural and Affordable Housing Linked Deposit Act; redirecting certain loan packages from State Treasurer to certifying agency; modifying procedure for review or audit of certain loan packages; and providing an effective date.

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

SECTION 1. AMENDATORY 60 O.S. 2001, Section 655, is amended to read as follows:

Section 655. A. ~~Except as otherwise provided in subsections B and 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) years and the owner within seven (7) years has not:~~

~~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 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. At the expiration of a seven-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) dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If seven (7) dividends, distributions, or other sums are paid during the seven-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) dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been seven (7) dividends, distributions, or other sums that have not been claimed by the owner.~~

~~C. The running of the seven-year period of abandonment ceases immediately upon the occurrence of a communication described in subsection 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. 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. 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 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 State Treasurer, the time for delivery shall be extended until the time when no penalty or forfeiture would result~~

1. Stock or other equity interest in a business association is presumed unclaimed three (3) years after the earliest of:

   a. The date of the most recent dividend, stock split, or other distribution unclaimed by the apparent owner, or

   b. The date a statement of account or other notification or communication was returned as undeliverable.

This subsection applies to both the underlying stock, share, or other intangible ownership interest of an owner, and to the stock, share, or other intangible ownership interest in dividend and nondividend paying business associations whether or not the interest is represented by a certificate.

2. Except as otherwise provided in Section 657 of this title, unmatured or unredeemed debt, other than a bearer bond or an original issue discount bond, is presumed unclaimed three (3) years after the date of the most recent interest payment unclaimed by the owner.

3. Except as otherwise provided in Section 657 of this title, matured or redeemed debt is presumed unclaimed three (3) years after the date of maturity or redemption.

4. At the time property is presumed unclaimed under paragraph 1 or 2 of this subsection, any other property right accrued or accruing to the owner as a result of the property interest and not previously presumed unclaimed is also presumed unclaimed.

5. 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 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.

B. 1. The running of any three-year period pursuant to subsection A of this section ceases if the person:

a. communicates in writing with the association or its agent regarding the interest or a dividend, distribution, or other sum payable as a result of the interest,

b. otherwise communicates with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association or its agent, or

c. presents an instrument issued to pay interest or a dividend or other cash distribution. 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 in which the property is presumed unclaimed commences and relates back only to the time a subsequent dividend, distribution, or other sum became due and payable.

C. Any dividend, profit, distribution, interest, redemption, payment on principal, or other sum held or owing by a business association for or to its shareholder, certificate holder, member, bondholder, or other security holder, who has not claimed it, or corresponded in writing with the business association concerning it, within three (3) years after the date prescribed for payment or delivery, is presumed unclaimed.

~~F.~~ D. The Uniform Unclaimed Property 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~~ the Rural Electric Cooperative Act and ~~438.1 of Title 18 of the Oklahoma Statutes~~ the Telephone Cooperative Corporations Act, rural water, sewer, gas and solid waste management districts organized under ~~Section 1324.1 of Title 82 of the Oklahoma Statutes~~ the Rural Water, Sewer, Gas and Solid Waste Management Districts Act, or agricultural cooperative marketing or supply associations organized under ~~Section 361 of Title 2 of the Oklahoma Statutes~~ the Cooperative Marketing Association Act; when such associations are domiciled in Oklahoma.

SECTION 2. AMENDATORY 60 O.S. 2001, Section 662, as amended by Section 7, Chapter 224, O.S.L. 2003 (60 O.S. Supp. 2004, Section 662), is amended to read as follows:

Section 662. A. The State Treasurer shall cause notice to be published ~~not later than March 1 of~~ during the year following the report required by Section 661 of this title at least ~~once each week for two (2) consecutive weeks~~ two (2) times in a legal newspaper of general circulation in the county in this state in which is located the last-known address of any person to be named in the notice. Different legal newspapers of general circulation may be used for each notice. If no address is listed or if the address is outside this state, the notice must be published in the county within this state which is the principal place of business of the holder of the abandoned property, or in a newspaper which the State Treasurer believes most likely to be seen by the owner of the property or by heirs of the owner.

B. The published notice must be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property", and contain:

1. The names in alphabetical order and last-known address, if any, of persons listed in the report and entitled to notice within the county as specified in subsection A of this section;

2. A statement that information concerning the property and the name and last-known address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the State Treasurer; and

3. A statement that the property is in the custody of the State Treasurer and all claims must be directed to the State Treasurer.

C. The State Treasurer is not required to publish in the notice any items of less than Fifty Dollars ($50.00) unless the State Treasurer considers their publication to be in the public interest.

D. The State Treasurer shall provide electronic access to the new names and last-known addresses of all persons reported to the

State Treasurer as owners of unclaimed property on an Internet web site. The State Treasurer shall take reasonable steps to publicize the existence of this web site and shall publish an advertisement no less than once each calendar quarter in a legal newspaper of general circulation in each county of this state.

SECTION 3. AMENDATORY 60 O.S. 2001, Section 663, as last amended by Section 4, Chapter 318, O.S.L. 2004 (60 O.S. Supp. 2004, Section 663), is amended to read as follows:

Section 663. A. ~~Except as otherwise provided in subsection B of this section, a~~ A person who is required to file a report under Section 661 of this title shall at the same time pay or deliver to the State Treasurer all abandoned property required to be reported after first deducting therefrom expenses incurred in the mailing of notices required by subsection E of Section 661 of this title and any offsets as provided by law. Any funds or property subject to aggregate reporting shall be delivered at the same time as the report.

B. A holder may file a written explanation of an error in the presumption of abandonment of any previously reported and paid or delivered property. If the property has not been claimed by the owner and the State Treasurer is satisfied an error has been made, a refund of the payment or delivery of the property shall be made to the holder.

C. The holder of an ownership interest under Section 655 of this title shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership to the State Treasurer. Upon delivery of a duplicate certificate to the State Treasurer, the holder and any transfer agent, registrar, or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate is relieved of liability as provided in Section 664 of this title to every person, including any person acquiring the original certificate or the duplicate of the

certificate issued to the State Treasurer, for losses or damages resulting to any person by the issuance and delivery to the State Treasurer of the duplicate certificate.

SECTION 4. AMENDATORY 60 O.S. 2001, Section 667, as last amended by Section 5, Chapter 318, O.S.L. 2004 (60 O.S. Supp. 2004, Section 667), is amended to read as follows:

Section 667. A. Except as provided in subsections B and C of this section, when the State Treasurer~~, within three (3) years after the receipt of abandoned property,~~ determines it to be economically feasible, the Treasurer shall sell ~~it~~ abandoned property from safe deposit boxes to the highest bidder at public sale in whatever city in the state affords in the judgment of the State Treasurer the most favorable market for the property involved. The State Treasurer may decline the highest bid and reoffer the property for sale if in the judgment of the State Treasurer the bid is insufficient. If in the judgment of the State Treasurer the probable cost of sale exceeds the value of the property, it need not be offered for sale. Any sale held under this section must be preceded by a single publication of notice, at least three (3) weeks in advance of sale in a legal newspaper of general circulation in the county where the property is to be sold, the county of residence of the holder and the county of the last-known address of the owner.

B. Securities listed on an established stock exchange must be sold at prices prevailing at the time of sale on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by another method the State Treasurer considers advisable.

C. Unless the State Treasurer considers it to be in the best interest of the state to do otherwise, all securities, other than those presumed abandoned under Section 655 of this title, delivered to the State Treasurer must be held for at least one (1) year before the State Treasurer may sell them.

D. The purchaser at any sale conducted by the State Treasurer pursuant to the Uniform Unclaimed Property Act takes the property, free of all claims of the owner or prior holder thereof and of all persons claiming through or under them. The State Treasurer shall execute all documents necessary to complete the transfer of ownership.

SECTION 5. AMENDATORY 60 O.S. 2001, Section 677, as amended by Section 8, Chapter 318, O.S.L. 2004 (60 O.S. Supp. 2004, Section 677), is amended to read as follows:

Section 677. A. The State Treasurer may decline to receive any property reported under the Uniform Unclaimed Property Act which the State Treasurer considers to have a value less than the expense of giving notice and of sale. <u>The State Treasurer may promulgate rules pursuant to this subsection.</u>

B. A holder, with the written consent of the State Treasurer and upon conditions and terms prescribed by the State Treasurer, may report and deliver property before the property is presumed abandoned. Property delivered under this subsection must be held by the State Treasurer and is not presumed abandoned until such time as it otherwise would be presumed abandoned under the Uniform Unclaimed Property Act.

SECTION 6. AMENDATORY Section 6, Chapter 287, O.S.L. 2002, as amended by Section 16, Chapter 224, O.S.L. 2003 (62 O.S. Supp. 2004, Section 91.6), is amended to read as follows:

Section 91.6 A. The State Treasurer shall provide rural housing linked deposit loan packages upon request to the lending institutions eligible for participation in the Oklahoma Rural and Affordable Housing Linked Deposit Program.

B. The rural housing linked deposit loan package shall be completed by the developer before being forwarded to the lending institution for consideration.

C. 1. An eligible lending institution that desires to receive a rural housing linked deposit shall accept and review applications for loans from eligible rural housing developers. The lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible developer. No single linked deposit for an Oklahoma rural housing linked deposit loan shall exceed Two Million Dollars ($2,000,000.00).

2. Only one linked deposit loan shall be made and be outstanding at any one time to any developer. However, the linked deposit loan may be renewed subject to the time limitations for participation set forth in subsection C of Section 91.7 of this title.

3. No loan shall be made to any officer or director of the lending institution making the loan.

4. No loan shall be made to any employee of the State Treasurer's office or to any officer, director or employee of the certifying agency, or to any entity in which such officer, director or employee maintains a controlling interest, or to an immediate family member of the employees, officers, or directors of the State Treasurer or the certifying agency.

5. No loan shall be made prior to July 1, 2004, and no deposit of funds shall be made in connection with a rural housing linked deposit loan prior to July 1, 2004.

D. An eligible rural housing developer shall certify on its loan application that the reduced rate loan will be used exclusively for the purposes outlined in Section 91.2 of this title.

E. In considering which eligible rural housing developers to include in the rural housing linked deposit loan package for reduced rate loans, the eligible lending institution shall give priority to the economic needs of the area in which the development to be financed is located and other factors the eligible lending

institution considers appropriate to determine the relative financial need of the developer.

F. 1. The eligible lending institution shall forward to the ~~State Treasurer~~ certifying agency a rural housing linked deposit loan package, in the form and manner prescribed and approved by the State Treasurer. The package shall include information regarding the amount of the loan requested by each eligible developer and any other information regarding each development the State Treasurer requires. The institution shall, for each development, certify the present borrowing rate applicable to similar borrowers for similar projects, as well as the rate that would be charged to the applicant but for participation in the linked deposit program.

2. The institution and applicant shall certify that each applicant is an eligible rural housing developer.

3. Whoever knowingly makes a false statement concerning a linked deposit loan application shall be prohibited from participating in the linked deposit loan program.

G. ~~Upon receipt of a completed rural housing linked deposit loan package, the State Treasurer may review or audit the information contained in the completed rural housing linked deposit loan package.~~ The ~~State Treasurer~~ certifying agency shall ~~forward~~ examine the completed rural housing linked deposit loan package ~~to the certifying agency for the purpose of review and~~ for possible certification. The certifying agency may charge an applicant a reasonable filing fee. A uniform fee may be established to cover its administrative costs of review. Any filing fee must be approved by the State Treasurer. The certifying agency shall review the linked deposit loan package to determine if the package satisfies the requirements of this act and guidelines adopted pursuant to this act. The certifying agency shall make a recommendation concerning the package within thirty (30) business days. The certifying agency shall ~~return~~ forward the package to the State Treasurer with a

written recommendation of approval or rejection. If the certifying agency recommends rejection, the written recommendation shall include reasons for the rejection. The certifying agency shall forward a copy of its rejection notice to the lending institution and the borrower. The State Treasurer shall keep a chronological list of applications forwarded by the certifying agency for approval or rejection. Upon receipt of a completed rural housing linked deposit loan package, the State Treasurer may review or audit the information contained in the completed rural housing linked deposit loan package.

SECTION 7. This act shall become effective November 1, 2005.

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