

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1685 By: Wilson of the Senate
3 and
4 Jones of the House
5
6

7 (property and public finance - modifying
8 provisions - Uniform Unclaimed Property Act -
9 emergency)

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11 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
entire bill and insert
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13 "An Act relating to unclaimed property; amending 60
14 O.S. 2001, Sections 652, 661, as last amended by
15 Section 2, Chapter 233, O.S.L. 2006, 662, as last
16 amended by Section 2, Chapter 124, O.S.L. 2005, 663,
17 as last amended by Section 3, Chapter 124, O.S.L.
18 2005, 672 and 678 (60 O.S. Supp. 2007, Sections 661,
19 662 and 663), which relate to the Uniform Unclaimed
20 Property Act; clarifying application of certain
21 presumption; modifying information which must be
22 reported to State Treasurer on certain property;
23 clarifying notice requirements; establishing
24 procedures for reimbursement to certain holder of
abandoned property; modifying standard for
investment of certain fund; authorizing State
Treasurer to contract for certain duties; amending
62 O.S. 2001, Section 89.5, which relates to the
State Treasurer's Revolving Fund; authorizing monies
received from certain charges to be deposited into
specified revolving fund; and declaring an
emergency.

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

2 SECTION 1. AMENDATORY 60 O.S. 2001, Section 652, is
3 amended to read as follows:

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

10 1. In the case of a deposit, increased or decreased its amount
11 or presented the passbook or other similar evidence of the deposit
12 for the crediting of interest;

13 2. Communicated in writing with the banking or financial
14 organization concerning the property;

15 3. Otherwise indicated an interest in the property as evidenced
16 by a memorandum or other record on file prepared by an employee of
17 the banking or financial organization;

18 4. Owned other property to which the provisions of paragraph 1,
19 2 or 3 of this subsection apply and if the banking or financial
20 organization communicates in writing with the owner with regard to
21 the property that would otherwise be presumed abandoned under this
22 subsection at the address to which communications regarding the
23 other property are regularly sent; or

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1 5. Had another relationship with the banking or financial
2 organization concerning which the owner has:

- 3 a. communicated in writing with the banking or financial
4 organization, or
- 5 b. otherwise indicated an interest as evidenced by a
6 memorandum or other record on file prepared by an
7 employee of the banking or financial organization and
8 if the banking or financial organization communicates
9 in writing with the owner with regard to the property
10 that would otherwise be abandoned under this
11 subsection at the address to which communications
12 regarding the other relationship regularly are sent.

13 If a banking or financial organization has sent a statement or
14 other business communication concerning such property to the owner
15 by first-class mail and the statement or other business
16 communication has not been returned for inability to make delivery
17 to the addressee, the property shall not be presumed to be
18 abandoned. The five-year abandonment period shall begin to run when
19 any statement or other business communication to the owner has been
20 returned as undeliverable, or on the last date that the owner has
21 communicated with the banking or financial organization in any of
22 the ways specified in paragraphs 1 through 5 of this subsection,
23 whichever is the later.

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1 B. For purposes of subsection A of this section, "property"
2 includes interest and dividends.

3 C. A holder may not impose with respect to property described
4 in subsection A of this section any charge due to dormancy or
5 inactivity or cease payment of interest unless:

6 1. Reasonable notice that the holder may impose the charge or
7 cease payment of interest is given to the owner of the property,
8 either:

9 a. at the time the account is opened,

10 b. through a schedule of charges sent to the owner of the
11 property, or

12 c. through a statement in the rules, regulations, or
13 bylaws of the holder that the holder may impose the
14 charge or cease payment of interest; and

15 2. The holder regularly imposes such charges or ceases payment
16 of interest. If the holder regularly reverses or otherwise cancels
17 such charges or retroactively credits interest for a reason other
18 than an error or omission by the holder, then in proportion to the
19 extent that it does so with respect to other deposits, the holder
20 shall likewise reverse or otherwise cancel charges or retroactively
21 credit interest with respect to property that is reported to the
22 State Treasurer as unclaimed under the Uniform Unclaimed Property
23 Act.

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

6 1. Increased or decreased the amount of the deposit;

7 2. Communicated in writing with the banking or financial
8 organization concerning the property;

9 3. Otherwise indicated an interest in the property as evidenced
10 by a memorandum or other record on file prepared by an employee of
11 the banking or financial organization; or

12 4. Had another relationship with the banking or financial
13 organization concerning which the owner has:

14 a. communicated in writing with the banking or financial
15 organization, or

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

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1 Upon presumed abandonment of the automatically renewable time
2 deposit, the holder shall report the presumed abandonment to the
3 State Treasurer and may, at the holder's option, either retain the
4 property or pay or deliver it to the State Treasurer.

5 SECTION 2. AMENDATORY 60 O.S. 2001, Section 661, as last
6 amended by Section 2, Chapter 233, O.S.L. 2006 (60 O.S. Supp. 2007,
7 Section 661), is amended to read as follows:

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

13 B. The report must be verified and must include:

14 1. The name, if known, and last-known address, if any, of each
15 person appearing from the records of the holder to be the owner of
16 property of the value of Fifty Dollars (\$50.00) or more presumed
17 abandoned under the Uniform Unclaimed Property Act and items of
18 value under Fifty Dollars (\$50.00), reported in the aggregate,
19 except property which is one of a recurring number of continuous
20 payments, including, but not limited to, royalties, annuities,
21 dividends, distributions and other sums presumed abandoned pursuant
22 to subsection D of Section 655 of this title, which shall be
23 reported in the same manner as property with a value of Fifty
24 Dollars (\$50.00) or more;

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

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

11 4. ~~The nature and identifying number, if any, or description of~~
12 ~~the property, including type and identifying number if any, and the~~
13 ~~amount appearing from the records to be due, except that items of~~
14 ~~value under Fifty Dollars (\$50.00) each must be reported in the~~
15 ~~aggregate, except property which is one of a recurring number of~~
16 ~~continuous payments, including, but not limited to, royalties,~~
17 ~~annuities, dividends, distributions, and other sums presumed~~
18 ~~abandoned pursuant to subsection D of Section 655 of this title, all~~
19 ~~of which shall be reported in the same manner as property with a~~
20 ~~value of Fifty Dollars (\$50.00) or more;~~

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

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

4 7. Any other information reasonably required by the Treasurer.

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

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

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

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

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

6 3. The property has a value of Fifty Dollars (\$50.00) or more,
7 or the property has a value of less than Fifty Dollars (\$50.00)
8 ~~reportable pursuant to paragraph 4 of subsection B of this section~~
9 and is one of a recurring number of continuous payments, including,
10 but not limited to, royalties, annuities, dividends, distributions
11 and other recurring sums presumed abandoned pursuant to subsection D
12 of Section 655 of this title. The holder is not required to send
13 written notice to the owner if the holder has previously attempted
14 to communicate with the owner, or otherwise exercised due diligence
15 to ascertain the whereabouts of the owner. The mailing of notice by
16 first-class mail to the last-known address of the owner by the
17 holder shall constitute compliance with this subsection and, if
18 done, no further act on the part of the holder shall be necessary.

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

22 SECTION 3. AMENDATORY 60 O.S. 2001, Section 662, as last
23 amended by Section 2, Chapter 124, O.S.L. 2005 (60 O.S. Supp. 2007,
24 Section 662), is amended to read as follows:

1 Section 662. A. The State Treasurer shall cause ~~notice~~ at
2 least two notices to be published during the year following the
3 report required by Section 661 of this title ~~at least two times~~ in a
4 legal newspaper of general circulation in the county in this state
5 in which is located the last-known address of any person to be named
6 in the notice. Different legal newspapers of general circulation
7 may be used for each notice. If no address is listed or if the
8 address is outside this state, the notice must be published in the
9 county within this state which is the principal place of business of
10 the holder of the abandoned property, or in a newspaper which the
11 State Treasurer believes most likely to be seen by the owner of the
12 property or by heirs of the owner.

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

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

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

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

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

4 D. The State Treasurer shall provide electronic access to the
5 new names and last-known addresses of all persons reported to the
6 State Treasurer as owners of unclaimed property on an Internet web
7 site. The State Treasurer shall take reasonable steps to publicize
8 the existence of this web site and shall publish an advertisement no
9 less than once each calendar quarter in a legal newspaper of general
10 circulation in each county of this state.

11 SECTION 4. AMENDATORY 60 O.S. 2001, Section 663, as last
12 amended by Section 3, Chapter 124, O.S.L. 2005 (60 O.S. Supp. 2007,
13 Section 663), is amended to read as follows:

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

22 B. A holder may file a written explanation of an error in the
23 presumption of abandonment of any previously reported and paid or
24 delivered property. If the property has not been claimed by the

1 owner and the State Treasurer is satisfied an error has been made, a
2 refund of the payment or delivery of the property shall be made to
3 the holder.

4 C. The holder of an ownership interest under Section 655 of
5 this title shall deliver a duplicate certificate or other evidence
6 of ownership if the holder does not issue certificates of ownership
7 to the State Treasurer. Upon delivery of a duplicate certificate to
8 the State Treasurer, the holder and any transfer agent, registrar,
9 or other person acting for or on behalf of a holder in executing or
10 delivering the duplicate certificate is relieved of liability as
11 provided in Section 664 of this title to every person, including any
12 person acquiring the original certificate or the duplicate of the
13 certificate issued to the State Treasurer, for losses or damages
14 resulting to any person by the issuance and delivery to the State
15 Treasurer of the duplicate certificate.

16 D. Property removed from a safe deposit box or other
17 safekeeping depository is received by the State Treasurer subject to
18 the right of the holder to be reimbursed for the cost of the opening
19 and to any valid lien or contract providing for the holder to be
20 reimbursed for unpaid rent or storage charges. The State Treasurer
21 shall reimburse the holder out of the proceeds remaining after
22 deducting the expenses incurred by the State Treasurer in selling
23 the property. The liability of the State Treasurer for this
24 reimbursement to the holder shall be limited to the proceeds of the

1 sale remaining after deducting the expenses incurred by the State
2 Treasurer.

3 SECTION 5. AMENDATORY 60 O.S. 2001, Section 672, is
4 amended to read as follows:

5 Section 672. The State Treasurer shall have the care, custody,
6 and management of the reserve fund, and may invest it, at the best
7 realizable rate, in ~~certificates of deposit, savings certificates,~~
8 ~~or short term obligations of the United States Government in which~~
9 ~~it shall be legal to invest the~~ accordance with the investment
10 policies of the State Treasurer and the provisions of state law
11 governing the investment of public funds of the State of Oklahoma ~~or~~
12 ~~of any agency or instrumentality thereof.~~ The income from such
13 investments shall be paid into the State Treasury to the credit of
14 the General Revenue Fund.

15 SECTION 6. AMENDATORY 60 O.S. 2001, Section 678, is
16 amended to read as follows:

17 Section 678. A. The State Treasurer may require any person who
18 has not filed a report to file a verified report stating whether or
19 not the person is holding any unclaimed property reportable or
20 deliverable under the Uniform Unclaimed Property Act. If the State
21 Treasurer has reason to believe that any person has failed to report
22 property in accordance with the Uniform Unclaimed Property Act, the
23 State Treasurer may make a demand by certified mail, return receipt
24 requested, that such report be made and filed with the State

1 Treasurer. The report of abandoned property or any other report
2 required shall be made and filed with the State Treasurer within
3 sixty (60) days after receipt of the demand.

4 B. The State Treasurer may at reasonable times and upon
5 reasonable notice examine the records of any person if the State
6 Treasurer has reason to believe that such person has failed to
7 report property that should have been reported pursuant to the
8 Uniform Unclaimed Property Act. The State Treasurer may contract
9 with any other person or entity to conduct the examination on behalf
10 of the State Treasurer.

11 C. If a person is treated under Section 656 of this title as
12 the holder of the property only insofar as the interest of the
13 business association in the property is concerned, the State
14 Treasurer, pursuant to subsection B of this section, may examine the
15 records of the person if the State Treasurer has given the notice
16 required by subsection B of this section to both the person and the
17 business association at least ninety (90) days before the
18 examination.

19 D. If a holder fails after September 1, 1991, to maintain the
20 records required by Section 679.1 of this title and the records of
21 the holder available for the periods subject to the Uniform
22 Unclaimed Property Act are insufficient to permit the preparation of
23 a report, the State Treasurer may require the holder to report and
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1 pay the amount that is reasonably estimated from any available
2 records.

3 SECTION 7. AMENDATORY 62 O.S. 2001, Section 89.5, is
4 amended to read as follows:

5 Section 89.5 A. There is hereby created in the State Treasury
6 a revolving fund for the Office of the State Treasurer to be
7 designated the "State Treasurer's Revolving Fund". The fund shall
8 be a continuing fund not subject to fiscal year limitations, and
9 shall consist of all monies received by the Office of the State
10 Treasurer from fees and receipts collected pursuant to the Oklahoma
11 Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma
12 Statutes; monies received, including, but not limited to, reasonable
13 and customary service-related charges, ~~excluding bank service~~
14 ~~charges~~, any monies received from the sale of surplus property, and
15 any grants-in-aid received from the federal government for the
16 operations of the Office of the State Treasurer unless otherwise
17 provided by federal law or regulation. All monies accruing to the
18 credit of said fund are hereby appropriated and may be budgeted and
19 expended by the Office of the State Treasurer for the operating
20 expenses of the said office. Expenditures from said fund shall be
21 made upon warrants issued by the State Treasurer against claims
22 filed as prescribed by law with the Director of State Finance for
23 approval and payment.

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