ENGROSSED SENATE
BILL NO. 1685 By: Wilson of the Senate

and

Jones of the House

[property and public finance - modifying provisions - Uniform Unclaimed Property Act - emergency]

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

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

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

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 in writing with the banking or financial organization concerning the property;

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 other property to which the provisions of paragraph 1, 2 or 3 of this subsection apply 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 another relationship with the banking or financial organization concerning which the owner has:

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

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 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 through 5 of this subsection, whichever is the later.

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

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

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. at the time the account is opened,

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

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 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 State Treasurer as unclaimed under the Uniform Unclaimed Property Act.

D. Automatically renewable time deposits shall be subject to this section, except that 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 or decreased the amount of the deposit;

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

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; or

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

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

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 State Treasurer and may, at the holder's option, either retain the property or pay or deliver it to the State Treasurer.

SECTION 2. AMENDATORY 60 O.S. 2001, Section 661, as last amended by Section 2, Chapter 233, O.S.L. 2006 (60 O.S. Supp. 2007, 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 <u>and items of value under Fifty Dollars ($50.00), reported in the aggregate,</u>

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, which shall be reported in the same manner as property with a value of Fifty Dollars ($50.00) or more;

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, including type and identifying number if any, 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;

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~~ and is one of a recurring number of continuous payments, including, but not limited to, royalties, annuities, dividends, distributions and other recurring sums presumed abandoned pursuant to subsection D of Section 655 of this title. 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 662, as last amended by Section 2, Chapter 124, O.S.L. 2005 (60 O.S. Supp. 2007, Section 662), is amended to read as follows:

Section 662.

A. The State Treasurer shall cause ~~notice~~ at least two notices to be published during the year following the report required by Section 661 of this title ~~at least two 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 4. AMENDATORY 60 O.S. 2001, Section 663, as last amended by Section 3, Chapter 124, O.S.L. 2005 (60 O.S. Supp. 2007, Section 663), is amended to read as follows:

Section 663. 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.

D. Property removed from a safe deposit box or other safekeeping depository is received by the State Treasurer subject to the right of the holder to be reimbursed for the cost of the opening

and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The State Treasurer shall reimburse the holder out of the proceeds remaining after deducting the expenses incurred by the State Treasurer in selling the property. The liability of the State Treasurer for this reimbursement to the holder shall be limited to the proceeds of the sale remaining after deducting the expenses incurred by the State Treasurer.

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

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

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

Section 678. A. The State Treasurer may require any person who has not filed a report to file a verified report stating whether or

not the person is holding any unclaimed property reportable or deliverable under the Uniform Unclaimed Property Act. If the State Treasurer has reason to believe that any person has failed to report property in accordance with the Uniform Unclaimed Property Act, the State Treasurer may make a demand by certified mail, return receipt requested, that such report be made and filed with the State Treasurer. The report of abandoned property or any other report required shall be made and filed with the State Treasurer within sixty (60) days after receipt of the demand.

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

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

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

SECTION 7. AMENDATORY 62 O.S. 2001, Section 7.2, as amended by Section 1, Chapter 105, O.S.L. 2002 (62 O.S. Supp. 2007, Section 7.2), is amended to read as follows:

Section 7.2 A. There is hereby re-created, to continue until July 1, 2008, in accordance with the provisions of the Oklahoma Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma Statutes, a Special Agency Account Board, to consist of the Director of State Finance, the State Treasurer and the Director of the Legislative Service Bureau. The Board shall have the authority to approve the establishment of agency special accounts in the official depository of the State Treasury. In the case of institutions of higher education, the Special Agency Account Board, acting in conjunction with the Oklahoma State Regents for Higher Education, shall establish special agency accounts as appropriate which shall be consistent with provisions of the Oklahoma Budget Law of 1947, Section 41.1 et seq. of this title, as it relates to institutions in The Oklahoma State System of Higher Education.

B. The Board, created by this section, shall adopt procedures including application forms, justification and other pertinent information as to the basis for a state agency application for the establishment of agency special accounts.

C. The Board may approve agency special accounts for money received by state agencies for the following purposes:

1. Benefit programs for individuals, including, but not limited to, unemployment compensation, workers' compensation and state retirement programs;

2. Revenues produced by activities or facilities ancillary to the operation of a state agency which receive no money, directly or indirectly, from or through that state agency, including, but not limited to, revenues from the sales of food at retail level, sales at canteens, sales at student unions, sales at student bookstores, receipts from athletic programs and receipts from housing. Provided, however, that a state institution of higher learning may purchase necessary equipment and instructional supplies and office supplies from a student bookstore, or, subject to authorization by the Oklahoma State Regents for Higher Education, may rent building space for institutional use in a building operated by an organization or entity whose existence is ancillary to the operation of a state agency, and whose cost was financed in whole or in part with revenue-type bonds; provided, further, that the cost of such

office supplies or space rental shall not exceed the cost of similar supplies or rentals available commercially;

3. Gifts, devises and bequests with an agency as beneficiary, unless otherwise provided by statute;

4. Evidence funds for law enforcement agencies;

5. Student loan funds and scholarship funds;

6. Funds held in escrow;

7. Land Commission funds;

8. Funds for which the state agency acts as custodian, including, but not limited to, fees from employee earnings approved by the governing board of the agency, funds of student organizations including student activity fees collected by an educational institution as a separate item in enrollment procedures, professional organizations, patients and inmates;

9. Funds used by the Oklahoma Tax Commission to pay for the filing of liens with the Federal Aviation Administration;

10. Temporary accounts for funds arising from new or amended legislation not otherwise provided for in statute or for other emergency situations. Such accounts are to be utilized only pending legislative action directing custody of such funds;

11. Payment of liability claims against the state;

12. Activities of the various Armory Boards of the Oklahoma Military Department to receive and dispense funds derived by the

Armory Boards pursuant to Sections 232.6 and 232.7 of Title 44 of the Oklahoma Statutes; ~~and~~

13. Payment of expenses incurred in connection with the acceptance of payments made with nationally recognized credit cards; and

14. Money damages awarded to an agency pursuant to a judgment or settlement.

D. The State Treasurer is authorized to accept deposit of money made directly to agency special accounts approved by the Board. All money received by a state agency, as described in Section 7.1 of this title, shall be deposited in State Treasury funds or accounts and no money shall be deposited in banks or other depositories unless the bank accounts are maintained by the State Treasurer or are for the deposit of authorized petty cash funds.

E. Money deposited in agency special accounts shall be disbursed on vouchers issued by the state agency concerned to accomplish the purpose for which the money was intended.

F. Funds and revenues of the Grand River Dam Authority are exempt from the requirements of this section.

G. Funds and revenues of the Oklahoma Municipal Power Authority are exempt from the requirements of this section.

H. Monies used for investment purposes by the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for

Justices and Judges, the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System, the Teachers' Retirement System of Oklahoma, the State Insurance Fund, the State and Education Employees Group Insurance Board, the Commissioners of the Land Office, and the Oklahoma State Regents for Higher Education for its Endowment Trust Fund are exempt from the requirements of this section, and shall be placed with the respective custodian bank or trust company.

SECTION 8. AMENDATORY 62 O.S. 2001, Section 89.5, is amended to read as follows:

Section 89.5 A. There is hereby created in the State Treasury a revolving fund for the Office of the State Treasurer to be designated the "State Treasurer's Revolving Fund". The fund shall be a continuing fund not subject to fiscal year limitations, and shall consist of all monies received by the Office of the State Treasurer from fees and receipts collected pursuant to the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes; monies received, including, but not limited to, reasonable and customary service-related charges, ~~excluding bank service charges,~~ any monies received from the sale of surplus property, and any grants-in-aid received from the federal government for the operations of the Office of the State Treasurer unless otherwise provided by federal law or regulation. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and

expended by the Office of the State Treasurer for the operating expenses of the said office. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. The State Treasurer shall appoint and fix the duties and compensation of employees, not otherwise prescribed by law, necessary to perform the duties imposed upon the Office of the State Treasurer by law.

SECTION 9. 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.

Passed the Senate the 25th day of February, 2008.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2008.

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Presiding Officer of the House of Representatives