

ENROLLED SENATE  
BILL NO. 1685

By: Wilson of the Senate

and

Jones of the House

An Act relating to unclaimed property; amending 60 O.S. 2001, Sections 652, 661, as last amended by Section 2, Chapter 233, O.S.L. 2006, 662, as last amended by Section 2, Chapter 124, O.S.L. 2005, 663, as last amended by Section 3, Chapter 124, O.S.L. 2005, 672 and 678 (60 O.S. Supp. 2007, Sections 661, 662 and 663), which relate to the Uniform Unclaimed Property Act; clarifying application of certain presumption; modifying information which must be reported to State Treasurer on certain property; clarifying notice requirements; establishing 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.

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 and items of value under Fifty Dollars (\$50.00), 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, 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~~ 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 ~~or of any agency or instrumentality thereof.~~ 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. The State Treasurer may contract with any other person or entity to conduct the examination on behalf of the State Treasurer.

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 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 8. 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 28th day of April, 2008.

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Presiding Officer of the Senate

Passed the House of Representatives the 7th day of April, 2008.

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Presiding Officer of the House  
of Representatives