

SB 1685

1 THE STATE SENATE
2 Tuesday, February 19, 2008

3 Senate Bill No. 1685
4 As Amended

5 SENATE BILL NO. 1685 - By: WILSON of the Senate and JONES of the
6 House.

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

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

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

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

19 1. In the case of a deposit, increased or decreased its amount
20 or presented the passbook or other similar evidence of the deposit
21 for the crediting of interest;

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

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

4 4. Owned other property to which the provisions of paragraph 1,
5 2 or 3 of this subsection apply and if the banking or financial
6 organization communicates in writing with the owner with regard to
7 the property that would otherwise be presumed abandoned under this
8 subsection at the address to which communications regarding the
9 other property are regularly sent; or

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

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

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

22 If a banking or financial organization has sent a statement or
23 other business communication concerning such property to the owner

1 by first-class mail and the statement or other business
2 communication has not been returned for inability to make delivery
3 to the addressee, the property shall not be presumed to be
4 abandoned. The five-year abandonment period shall begin to run when
5 any statement or other business communication to the owner has been
6 returned as undeliverable, or on the last date that the owner has
7 communicated with the banking or financial organization in any of
8 the ways specified in paragraphs 1 through 5 of this subsection,
9 whichever is the later.

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

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

15 1. Reasonable notice that the holder may impose the charge or
16 cease payment of interest is given to the owner of the property,
17 either:

18 a. at the time the account is opened,

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

21 c. through a statement in the rules, regulations, or
22 bylaws of the holder that the holder may impose the
23 charge or cease payment of interest; and

1 2. The holder regularly imposes such charges or ceases payment
2 of interest. If the holder regularly reverses or otherwise cancels
3 such charges or retroactively credits interest for a reason other
4 than an error or omission by the holder, then in proportion to the
5 extent that it does so with respect to other deposits, the holder
6 shall likewise reverse or otherwise cancel charges or retroactively
7 credit interest with respect to property that is reported to the
8 State Treasurer as unclaimed under the Uniform Unclaimed Property
9 Act.

10 D. Automatically renewable time deposits shall be subject to
11 this section, except that automatically renewable time deposits
12 shall be presumed abandoned fifteen (15) years following the
13 expiration of the initial time period of the time deposit unless,
14 during that period the owner has:

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

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

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

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

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

11 Upon presumed abandonment of the automatically renewable time
12 deposit, the holder shall report the presumed abandonment to the
13 State Treasurer and may, at the holder's option, either retain the
14 property or pay or deliver it to the State Treasurer.

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

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

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

1 1. The name, if known, and last-known address, if any, of each
2 person appearing from the records of the holder to be the owner of
3 property of the value of Fifty Dollars (\$50.00) or more presumed
4 abandoned under the Uniform Unclaimed Property Act and items of
5 value under Fifty Dollars (\$50.00), reported in the aggregate,
6 except property which is one of a recurring number of continuous
7 payments, including, but not limited to, royalties, annuities,
8 dividends, distributions and other sums presumed abandoned pursuant
9 to subsection D of Section 655 of this title, which shall be
10 reported in the same manner as property with a value of Fifty
11 Dollars (\$50.00) or more;

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

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

22 4. The ~~nature and identifying number, if any, or~~ description of
23 the property, including type and identifying number if any, and the

1 amount appearing from the records to be due, ~~except that items of~~
2 ~~value under Fifty Dollars (\$50.00) each must be reported in the~~
3 ~~aggregate, except property which is one of a recurring number of~~
4 ~~continuous payments, including, but not limited to, royalties,~~
5 ~~annuities, dividends, distributions, and other sums presumed~~
6 ~~abandoned pursuant to subsection D of Section 655 of this title, all~~
7 ~~of which shall be reported in the same manner as property with a~~
8 ~~value of Fifty Dollars (\$50.00) or more;~~

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

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

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

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

22 D. The report must be filed before November 1 of each year for
23 property reportable as of the preceding September 1, but the report

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

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

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

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

17 3. The property has a value of Fifty Dollars (\$50.00) or more,
18 or the property has a value of less than Fifty Dollars (\$50.00)
19 ~~reportable pursuant to paragraph 4 of subsection B of this section~~
20 and is one of a recurring number of continuous payments, including,
21 but not limited to, royalties, annuities, dividends, distributions
22 and other recurring sums presumed abandoned pursuant to subsection D
23 of Section 655 of this title. The holder is not required to send

1 written notice to the owner if the holder has previously attempted
2 to communicate with the owner, or otherwise exercised due diligence
3 to ascertain the whereabouts of the owner. The mailing of notice by
4 first-class mail to the last-known address of the owner by the
5 holder shall constitute compliance with this subsection and, if
6 done, no further act on the part of the holder shall be necessary.

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

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

13 Section 662.

14 A. The State Treasurer shall cause ~~notice~~ at least two notices
15 to be published during the year following the report required by
16 Section 661 of this title ~~at least two times~~ in a legal newspaper of
17 general circulation in the county in this state in which is located
18 the last-known address of any person to be named in the notice.
19 Different legal newspapers of general circulation may be used for
20 each notice. If no address is listed or if the address is outside
21 this state, the notice must be published in the county within this
22 state which is the principal place of business of the holder of the
23 abandoned property, or in a newspaper which the State Treasurer

1 believes most likely to be seen by the owner of the property or by
2 heirs of the owner.

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

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

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

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

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

17 D. The State Treasurer shall provide electronic access to the
18 new names and last-known addresses of all persons reported to the
19 State Treasurer as owners of unclaimed property on an Internet web
20 site. The State Treasurer shall take reasonable steps to publicize
21 the existence of this web site and shall publish an advertisement no
22 less than once each calendar quarter in a legal newspaper of general
23 circulation in each county of this state.

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

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

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

18 C. The holder of an ownership interest under Section 655 of
19 this title shall deliver a duplicate certificate or other evidence
20 of ownership if the holder does not issue certificates of ownership
21 to the State Treasurer. Upon delivery of a duplicate certificate to
22 the State Treasurer, the holder and any transfer agent, registrar,
23 or other person acting for or on behalf of a holder in executing or

1 delivering the duplicate certificate is relieved of liability as
2 provided in Section 664 of this title to every person, including any
3 person acquiring the original certificate or the duplicate of the
4 certificate issued to the State Treasurer, for losses or damages
5 resulting to any person by the issuance and delivery to the State
6 Treasurer of the duplicate certificate.

7 D. Property removed from a safe deposit box or other
8 safekeeping depository is received by the State Treasurer subject to
9 the right of the holder to be reimbursed for the cost of the opening
10 and to any valid lien or contract providing for the holder to be
11 reimbursed for unpaid rent or storage charges. The State Treasurer
12 shall reimburse the holder out of the proceeds remaining after
13 deducting the expenses incurred by the State Treasurer in selling
14 the property. The liability of the State Treasurer for this
15 reimbursement to the holder shall be limited to the proceeds of the
16 sale remaining after deducting the expenses incurred by the State
17 Treasurer.

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

20 Section 672. The State Treasurer shall have the care, custody,
21 and management of the reserve fund, and may invest it, at the best
22 realizable rate, in ~~certificates of deposit, savings certificates,~~
23 ~~or short term obligations of the United States Government in which~~

1 ~~it shall be legal to invest the public funds of the State of~~
2 ~~Oklahoma or of any agency or instrumentality thereof~~ accordance with
3 the investment policies of the State Treasurer and the provisions of
4 state law governing the investment of public funds of the State of
5 Oklahoma. The income from such investments shall be paid into the
6 State Treasury to the credit of the General Revenue Fund.

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

9 Section 678. A. The State Treasurer may require any person who
10 has not filed a report to file a verified report stating whether or
11 not the person is holding any unclaimed property reportable or
12 deliverable under the Uniform Unclaimed Property Act. If the State
13 Treasurer has reason to believe that any person has failed to report
14 property in accordance with the Uniform Unclaimed Property Act, the
15 State Treasurer may make a demand by certified mail, return receipt
16 requested, that such report be made and filed with the State
17 Treasurer. The report of abandoned property or any other report
18 required shall be made and filed with the State Treasurer within
19 sixty (60) days after receipt of the demand.

20 B. The State Treasurer may at reasonable times and upon
21 reasonable notice examine the records of any person if the State
22 Treasurer has reason to believe that such person has failed to
23 report property that should have been reported pursuant to the

1 Uniform Unclaimed Property Act. The State Treasurer may contract
2 with any other person or entity to conduct the examination on behalf
3 of the State Treasurer.

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

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

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

22 Section 7.2 A. There is hereby re-created, to continue until
23 July 1, 2008, in accordance with the provisions of the Oklahoma

1 Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma
2 Statutes, a Special Agency Account Board, to consist of the Director
3 of State Finance, the State Treasurer and the Director of the
4 Legislative Service Bureau. The Board shall have the authority to
5 approve the establishment of agency special accounts in the official
6 depository of the State Treasury. In the case of institutions of
7 higher education, the Special Agency Account Board, acting in
8 conjunction with the Oklahoma State Regents for Higher Education,
9 shall establish special agency accounts as appropriate which shall
10 be consistent with provisions of the Oklahoma Budget Law of 1947,
11 Section 41.1 et seq. of this title, as it relates to institutions in
12 The Oklahoma State System of Higher Education.

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

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

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

22 2. Revenues produced by activities or facilities ancillary to
23 the operation of a state agency which receive no money, directly or

1 indirectly, from or through that state agency, including, but not
2 limited to, revenues from the sales of food at retail level, sales
3 at canteens, sales at student unions, sales at student bookstores,
4 receipts from athletic programs and receipts from housing.
5 Provided, however, that a state institution of higher learning may
6 purchase necessary equipment and instructional supplies and office
7 supplies from a student bookstore, or, subject to authorization by
8 the Oklahoma State Regents for Higher Education, may rent building
9 space for institutional use in a building operated by an
10 organization or entity whose existence is ancillary to the operation
11 of a state agency, and whose cost was financed in whole or in part
12 with revenue-type bonds; provided, further, that the cost of such
13 office supplies or space rental shall not exceed the cost of similar
14 supplies or rentals available commercially;

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

17 4. Evidence funds for law enforcement agencies;

18 5. Student loan funds and scholarship funds;

19 6. Funds held in escrow;

20 7. Land Commission funds;

21 8. Funds for which the state agency acts as custodian,
22 including, but not limited to, fees from employee earnings approved
23 by the governing board of the agency, funds of student organizations

1 including student activity fees collected by an educational
2 institution as a separate item in enrollment procedures,
3 professional organizations, patients and inmates;

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

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

10 11. Payment of liability claims against the state;

11 12. Activities of the various Armory Boards of the Oklahoma
12 Military Department to receive and dispense funds derived by the
13 Armory Boards pursuant to Sections 232.6 and 232.7 of Title 44 of
14 the Oklahoma Statutes; ~~and~~

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

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

20 D. The State Treasurer is authorized to accept deposit of money
21 made directly to agency special accounts approved by the Board. All
22 money received by a state agency, as described in Section 7.1 of
23 this title, shall be deposited in State Treasury funds or accounts

1 and no money shall be deposited in banks or other depositories
2 unless the bank accounts are maintained by the State Treasurer or
3 are for the deposit of authorized petty cash funds.

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

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

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

11 H. Monies used for investment purposes by the Oklahoma
12 Firefighters Pension and Retirement System, the Oklahoma Police
13 Pension and Retirement System, the Uniform Retirement System for
14 Justices and Judges, the Oklahoma Law Enforcement Retirement System,
15 the Oklahoma Public Employees Retirement System, the Teachers'
16 Retirement System of Oklahoma, the State Insurance Fund, the State
17 and Education Employees Group Insurance Board, the Commissioners of
18 the Land Office, and the Oklahoma State Regents for Higher Education
19 for its Endowment Trust Fund are exempt from the requirements of
20 this section, and shall be placed with the respective custodian bank
21 or trust company.

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

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

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

1 SECTION 9. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.
5 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-12-08 - DO PASS,
6 As Amended and Coauthored.