

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1685

By: Wilson

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7 AS INTRODUCED

8 An Act relating to property and public finance;
9 amending 60 O.S. 2001, Sections 652, 661, as last
10 amended by Section 2, Chapter 233, O.S.L. 2006, 662,
11 as last amended by Section 2, Chapter 124, O.S.L.
12 2005, 663, as last amended by Section 3, Chapter 124,
13 O.S.L. 2005, 672 and 678 (60 O.S. Supp. 2007,
14 Sections 661, 662 and 663), which relate to the
15 Uniform Unclaimed Property Act; clarifying
16 application of certain presumption; modifying
17 information which must be reported to State Treasurer
18 on certain property; clarifying notice requirements;
19 establishing procedures for reimbursement to certain
20 holder of abandoned property; modifying standard for
21 investment of certain fund; authorizing State
22 Treasurer to contract for certain duties; and
23 amending 62 O.S. 2001, Sections 7.2, as amended by
24 Section 1, Chapter 105, O.S.L. 2002 and 89.5 (62 O.S.
Supp. 2007, Section 7.2), which relate to accounting
for state funds and investments by the State
Treasurer; authorizing approval of special agency
account for specified purpose; authorizing monies
received from certain charges to be deposited into
specified revolving fund; and declaring an emergency.

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

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

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

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

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

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

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

23 5. Had another relationship with the banking or financial
24 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 abandoned under this
9 subsection at the address to which communications
10 regarding the other relationship regularly are sent.

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

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

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

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

7 a. at the time the account is opened,

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

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

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

22 D. Automatically renewable time deposits shall be subject to
23 this section, except that automatically renewable time deposits
24 shall be presumed abandoned fifteen (15) years following the

1 expiration of the initial time period of the time deposit unless,
2 during that period the owner has:

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

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

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

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

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

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

21 Upon presumed abandonment of the automatically renewable time
22 deposit, the holder shall report the presumed abandonment to the
23 State Treasurer and may, at the holder's option, either retain the
24 property or pay or deliver it to the State Treasurer.

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

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

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

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

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

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

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

18 5. The date when the property became payable, demandable or
19 returnable, and the date of the last transaction with the owner with
20 respect to the property;

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

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

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

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

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

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

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

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

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

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

20 Section 662.

21 A. The State Treasurer shall cause ~~notice~~ at least two notices
22 to be published during the year following the report required by
23 Section 661 of this title ~~at least two times~~ in a legal newspaper of
24 general circulation in the county in this state in which is located

1 the last-known address of any person to be named in the notice.
2 Different legal newspapers of general circulation may be used for
3 each notice. If no address is listed or if the address is outside
4 this state, the notice must be published in the county within this
5 state which is the principal place of business of the holder of the
6 abandoned property, or in a newspaper which the State Treasurer
7 believes most likely to be seen by the owner of the property or by
8 heirs of the owner.

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

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

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

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

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

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

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

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

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

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

23 C. The holder of an ownership interest under Section 655 of
24 this title shall deliver a duplicate certificate or other evidence

1 of ownership if the holder does not issue certificates of ownership
2 to the State Treasurer. Upon delivery of a duplicate certificate to
3 the State Treasurer, the holder and any transfer agent, registrar,
4 or other person acting for or on behalf of a holder in executing or
5 delivering the duplicate certificate is relieved of liability as
6 provided in Section 664 of this title to every person, including any
7 person acquiring the original certificate or the duplicate of the
8 certificate issued to the State Treasurer, for losses or damages
9 resulting to any person by the issuance and delivery to the State
10 Treasurer of the duplicate certificate.

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

22 SECTION 5. AMENDATORY 60 O.S. 2001, Section 672, is
23 amended to read as follows:
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1 Section 672. The State Treasurer shall have the care, custody,
2 and management of the reserve fund, and may invest it, at the best
3 realizable rate, in ~~certificates of deposit, savings certificates,~~
4 ~~or short term obligations of the United States Government in which~~
5 ~~it shall be legal to invest the public funds of the State of~~
6 ~~Oklahoma or of any agency or instrumentality thereof~~ accordance with
7 the investment policies of the State Treasurer and the provisions of
8 state law governing the investment of public funds of the State of
9 Oklahoma. The income from such investments shall be paid into the
10 State Treasury to the credit of the General Revenue Fund.

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

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

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

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

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

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

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

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

22 C. The Board may approve agency special accounts for money
23 received by state agencies for the following purposes:
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1 1. Benefit programs for individuals, including, but not limited
2 to, unemployment compensation, workers' compensation and state
3 retirement programs;

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

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

22 4. Evidence funds for law enforcement agencies;

23 5. Student loan funds and scholarship funds;

24 6. Funds held in escrow;

- 1 7. Land Commission funds;
- 2 8. Funds for which the state agency acts as custodian,
3 including, but not limited to, fees from employee earnings approved
4 by the governing board of the agency, funds of student organizations
5 including student activity fees collected by an educational
6 institution as a separate item in enrollment procedures,
7 professional organizations, patients and inmates;
- 8 9. Funds used by the Oklahoma Tax Commission to pay for the
9 filing of liens with the Federal Aviation Administration;
- 10 10. Temporary accounts for funds arising from new or amended
11 legislation not otherwise provided for in statute or for other
12 emergency situations. Such accounts are to be utilized only pending
13 legislative action directing custody of such funds;
- 14 11. Payment of liability claims against the state;
- 15 12. Activities of the various Armory Boards of the Oklahoma
16 Military Department to receive and dispense funds derived by the
17 Armory Boards pursuant to Sections 232.6 and 232.7 of Title 44 of
18 the Oklahoma Statutes; ~~and~~
- 19 13. Payment of expenses incurred in connection with the
20 acceptance of payments made with nationally recognized credit cards;
21 and
- 22 14. Money damages awarded to an agency pursuant to a judgment or
23 settlement.
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1 D. The State Treasurer is authorized to accept deposit of money
2 made directly to agency special accounts approved by the Board. All
3 money received by a state agency, as described in Section 7.1 of
4 this title, shall be deposited in State Treasury funds or accounts
5 and no money shall be deposited in banks or other depositories
6 unless the bank accounts are maintained by the State Treasurer or
7 are for the deposit of authorized petty cash funds.

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

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

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

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

3 SECTION 8. 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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1 B. The State Treasurer shall appoint and fix the duties and
2 compensation of employees, not otherwise prescribed by law,
3 necessary to perform the duties imposed upon the Office of the State
4 Treasurer by law.

5 SECTION 9. It being immediately necessary for the preservation
6 of the public peace, health and safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

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