

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 SENATE BILL 853

By: Wilson

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5
6 AS INTRODUCED

7 An Act relating to property and public finance;
8 amending 60 O.S. 2001, Sections 652, 661, as last
9 amended by Section 2, Chapter 233, O.S.L. 2006, 662,
10 as last amended by Section 2, Chapter 124, O.S.L.
11 2005, 672 and 678 (60 O.S. Supp. 2006, Sections 661
12 and 662), which relate to the Uniform Unclaimed
13 Property Act; clarifying application of certain
14 presumption; modifying information which must be
15 reported to State Treasurer on certain property;
16 clarifying notice requirements; modifying standard
17 for investment of certain fund; authorizing State
18 Treasurer to contract for certain duties; and
19 amending 62 O.S. 2001, Sections 89.5 and 89.6, which
20 relate to investments by the State Treasurer;
21 authorizing monies received from certain charges to
22 be deposited into specified revolving fund;
23 authorizing the State Treasurer to charge and collect
24 fees for certain expenses incurred; providing
an effective date; 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

1 certificate, or funds paid toward any other interest in a banking or
2 financial organization is presumed abandoned, unless the owner,
3 within five (5) years has:

4 1. In the case of a deposit, increased or decreased its amount
5 or presented the passbook or other similar evidence of the deposit
6 for the crediting of interest;

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

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

12 4. Owned other property to which the provisions of paragraph 1,
13 2 or 3 of this subsection apply and if the banking or financial
14 organization communicates in writing with the owner with regard to
15 the property that would otherwise be presumed abandoned under this
16 subsection at the address to which communications regarding the
17 other property are regularly sent; or

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

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

22 b. otherwise indicated an interest as evidenced by a
23 memorandum or other record on file prepared by an
24 employee of the banking or financial organization and

1 if the banking or financial organization communicates
2 in writing with the owner with regard to the property
3 that would otherwise be abandoned under this
4 subsection at the address to which communications
5 regarding the other relationship regularly are sent.

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

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

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

22 1. Reasonable notice that the holder may impose the charge or
23 cease payment of interest is given to the owner of the property,
24 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;

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; or

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

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

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

16 Upon presumed abandonment of the automatically renewable time
17 deposit, the holder shall report the presumed abandonment to the
18 State Treasurer and may, at the holder's option, either retain the
19 property or pay or deliver it to the State Treasurer.

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

23 Section 661. A. A person holding property, tangible or
24 intangible, presumed abandoned and subject to custody as unclaimed

1 property under the Uniform Unclaimed Property Act shall report to
2 the State Treasurer concerning the property as provided in this
3 section.

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

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

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

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

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

13 5. The date when the property became payable, demandable or
14 returnable, and the date of the last transaction with the owner with
15 respect to the property;

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

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

20 C. If the person holding property presumed abandoned and
21 subject to custody as unclaimed property is a successor to other
22 persons who previously held the property for the apparent owner or
23 if the name of the holder has changed while holding the property,

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1 the holder shall file with the report all known names and addresses
2 of each previous holder of the property.

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

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

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

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

21 3. The property has a value of Fifty Dollars (\$50.00) or more,
22 or the property has a value of less than Fifty Dollars (\$50.00)
23 ~~reportable pursuant to paragraph 4 of subsection B of this section~~
24 and is one of a recurring number of continuous payments, including,

1 but not limited to, royalties, annuities, dividends, distributions
2 and other recurring sums presumed abandoned pursuant to subsection D
3 of Section 655 of this title. The holder is not required to send
4 written notice to the owner if the holder has previously attempted
5 to communicate with the owner, or otherwise exercised due diligence
6 to ascertain the whereabouts of the owner. The mailing of notice by
7 first-class mail to the last-known address of the owner by the
8 holder shall constitute compliance with this subsection and, if
9 done, no further act on the part of the holder shall be necessary.

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

13 SECTION 3. AMENDATORY 60 O.S. 2001, Section 662, as last
14 amended by Section 2, Chapter 124, O.S.L. 2005 (60 O.S. Supp. 2006,
15 Section 662), is amended to read as follows:

16 Section 662. A. The State Treasurer shall cause ~~notice at~~
17 least two (2) notices to be published during the year following the
18 report required by Section 661 of this title ~~at least two times~~ in a
19 legal newspaper of general circulation in the county in this state
20 in which is located the last-known address of any person to be named
21 in the notice. Different legal newspapers of general circulation
22 may be used for each notice. If no address is listed or if the
23 address is outside this state, the notice must be published in the
24 county within this state which is the principal place of business of

1 the holder of the abandoned property, or in a newspaper which the
2 State Treasurer believes most likely to be seen by the owner of the
3 property or by heirs of the owner.

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

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

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

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

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

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

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

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

13 SECTION 5. AMENDATORY 60 O.S. 2001, Section 678, is
14 amended to read as follows:

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

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

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

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

1 SECTION 6. AMENDATORY 62 O.S. 2001, Section 89.5, is
2 amended to read as follows:

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

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

3 SECTION 7. AMENDATORY 62 O.S. 2001, Section 89.6, is
4 amended to read as follows:

5 Section 89.6 The State Treasurer shall charge and collect the
6 following fees:

7 1. For any returned check, a fee of Twenty-five Dollars
8 (\$25.00);

9 2. For handling and processing rejected warrant items processed
10 by the State Treasurer, a fee of forty-two cents (\$0.42) per item;
11 ~~and~~

12 3. For handling a stop-payment item processed by the State
13 Treasurer on behalf of a state agency, a fee of Ten Dollars (\$10.00)
14 for each item up to a maximum fee of Two Hundred Fifty Dollars
15 (\$250.00) per day;

16 4. For expenses incurred in managing the state agency and
17 General Fund blended portfolio, an annual fee of not more than two
18 and one-half (2 1/2) basis points may be charged monthly against the
19 average daily balance of the portfolio; provided, such fees will be
20 collected at the time earnings are deposited to the General Fund and
21 to participating state agencies; and

22 5. For expenses incurred in connection with separately managed
23 investment portfolios, other than the state agency and General Fund
24 blended portfolio, an annual fee of not more than five (5) basis

1 points may be charged monthly against the average daily balance of
2 each portfolio; provided, such fees will be collected at the time
3 earnings are deposited to accounts for the benefit of portfolio
4 owners.

5 SECTION 8. This act shall become effective July 1, 2007.

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

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