STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 3315 By: Martin (Scott)

COMMITTEE SUBSTITUTE

An Act relating to property; amending 60 O.S. 2001, Sections 651.2, 661, as last amended by Section 1, Chapter 433, O.S.L. 2009, 664, 674.2, as amended by Section 12, Chapter 224, O.S.L. 2003 and 675, as amended by Section 5, Chapter 433, O.S.L. 2009 (60 O.S. Supp. 2009, Sections 661, 674.2 and 675), which relate to the Uniform Unclaimed Property Act; creating prima facie standard; establishing burden of proof State Treasurer shall meet in certain circumstances; allowing for certain affirmative defenses; authorizing State Treasurer to require certain electronic reports; authorizing State Treasurer to promulgate certain rules; modifying definition; specifying certain decree of title requirement; specifying requirements for certain claims against the Mineral Owner's Fund; amending Section 43, Chapter 441, O.S.L. 2009 (62 O.S. Supp. 2009, Section 34.66), which relates to checks and warrants; modifying provisions related to Oklahoma Open Records Act; amending 62 O.S. 2001, Sections 89.2, as last amended by Section 8, Chapter 433, O.S.L. 2009, 89.6, as amended by Section 9, Chapter 433, O.S.L. 2009 and 89.7 (62 O.S. Supp. 2009, Sections 89.2 and 89.6), which relate to the Small Business Linked Deposit Act; modifying investment reporting requirements of Treasurer; modifying amount of certain fees; extending certain deadline; and providing an effective date.

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

SECTION 1. AMENDATORY 60 O.S. 2001, Section 651.2, is amended to read as follows:

Section 651.2 A. Any sum payable on a check, certified check, cashier's check, draft, or similar instrument, except those subject to Section 651.1 of this title, on which a banking or financial organization is directly liable, which has been outstanding for more than five (5) years after it was payable or after its issuance if payable on demand, is presumed abandoned, unless the owner, within five (5) years, has communicated in writing with the banking or financial organization concerning it or otherwise indicated an interest as evidenced by a memorandum or other record, on file, prepared by an employee thereof.

B. A record of the issuance of a check, draft, or similar instrument shall be prima facie evidence of an obligation.

C. The burden of proof upon the State Treasurer in claiming property from a holder, who is also the issuer, shall be satisfied by demonstrating the issuance of the instrument and the passage of the requisite period of abandonment as provided in subsection A of this section.

D. The holder may assert affirmative defenses of:

1. Payment;

2. Satisfaction;

3. Discharge; and

4. Want of consideration.

SECTION 2. AMENDATORY 60 O.S. 2001, Section 661, as last amended by Section 1, Chapter 433, O.S.L. 2009 (60 O.S. Supp. 2009, 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 description of the property, including type and identifying number if any, and the amount appearing from the records to be due;

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 July 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) 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.

G. The Treasurer may require a holder reporting fifteen or more items of property pursuant to this section to file the report electronically. The Treasurer shall promulgate rules necessary to carry out provisions for electronic filing.

SECTION 3. AMENDATORY 60 O.S. 2001, Section 664, is amended to read as follows:

Section 664. A. Upon the payment or delivery of abandoned property to the State Treasurer, the state assumes custody and responsibility for the safekeeping of the property. A person who pays or delivers property to the State Treasurer in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which thereafter may arise or be made in respect to the property.

B. A holder who has paid money to the State Treasurer pursuant to the Uniform Unclaimed Property Act may make payment to any person

appearing to the holder to be entitled to payment; and upon filing proof of such payment and proof that the payee was entitled thereto, the State Treasurer shall promptly reimburse the holder for the payment without imposing a fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a travelers check or money order, the holder ~~must~~ shall be reimbursed under this subsection upon filing proof that the instrument was presented and that payment was made to a person who appeared to the holder to be entitled to payment. The holder ~~must~~ shall be reimbursed for payment made under this subsection even if the holder paid a person whose claim was barred under subsection A of Section 666 of this title.

C. A holder who has delivered property, including, but not limited to, a certificate of an ownership interest in a business association, other than money to the State Treasurer pursuant to the Uniform Unclaimed Property Act may reclaim the property if still in the possession of the Treasurer, without paying any fee or other charge, upon filing proof that the owner has claimed the property from the holder.

D. The State Treasurer may accept the holder's affidavit as sufficient proof of the facts that entitle the holder to recover money and property under this section.

E. If the holder pays or delivers property to the State Treasurer in good faith and thereafter another person claims the

property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the State Treasurer, upon written notice of the claim, shall defend the holder against the claim and, to the extent of the property's value, shall indemnify the holder against liability on the claim. Neither the holder nor the State Treasurer shall be liable for more than the value of the property, determined as of the time of its payment or delivery to the State Treasurer, if the holder paid or delivered the property to the State Treasurer in good faith.

F. For the purposes of this section, "good faith" means that:

1. Payment or delivery was made in a reasonable attempt to comply with the Uniform Unclaimed Property Act;

2. The person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known, that the property was abandoned for the purposes of the Uniform Unclaimed Property Act; ~~and~~

3. There is no showing that the records under which the delivery was made did not meet reasonable commercial standards of practice in the industry; and

4. The reporting and delivery of property was made in compliance with Sections 661 and 663 of this title and any applicable administrative rules.

SECTION 4. AMENDATORY 60 O.S. 2001, Section 674.2, as amended by Section 12, Chapter 224, O.S.L. 2003 (60 O.S. Supp. 2009, Section 674.2), is amended to read as follows:

Section 674.2 If any person claims an interest in any property delivered to the State Treasurer in which the owner of the property is determined to be deceased, the State Treasurer shall not pay over or deliver to the claimant property as provided in Section 651 et seq. of this title, unless the claimant provides the following items:

1. A certified copy of letters of administration or letters testamentary from the probate of the estate of the decedent naming the claimant as the personal representative of the estate of the decedent;

2. A certified copy of the decree of distribution from the probate of the estate of the decedent determining the claimant to be entitled to receive such property through the estate of the decedent;

3. If the owner of the property executed an inter vivos trust which provided for the disposition of the property of the owner, a properly verified copy of the trust instrument which shows the claimant is the trustee or beneficiary of the trust or otherwise entitled to the property reported; ~~or~~

4. <u>If the property is derived from real property located in Oklahoma, a certified copy of a final decree quieting title of the</u>

decedent's real property, determining the claimant to be the successor in interest of decedent's ownership interest; or

5. If the value of the property is Ten Thousand Dollars ($10,000.00) or less, a signed affidavit executed by the claimant stating that the claimant is entitled to receive such property, the reason the claimant is entitled to receive such property, that there has been no probate of the estate of the deceased owner, that no probate is contemplated and that claimant will indemnify the state for any loss, including attorney fees, should another claimant assert a prior right to the property.

The State Treasurer may require other reasonable documentation, in addition to the above items, to determine the validity of the claim.

SECTION 5. AMENDATORY 60 O.S. 2001, Section 675, as amended by Section 5, Chapter 433, O.S.L. 2009 (60 O.S. Supp. 2009, Section 675), is amended to read as follows:

Section 675. A. The State Treasurer shall consider any claim filed under the Uniform Unclaimed Property Act and may hold a hearing and receive evidence concerning it. The procedure to be followed hereunder shall be as prescribed by the Administrative Procedures Act. If a hearing is held, the State Treasurer shall prepare a finding and decision in writing on each claim filed, stating the substance of any evidence heard by the State Treasurer

and the reasons for the State Treasurer's decision. The decision shall be a public record.

B. Upon approval by the State Treasurer, the claim shall be paid forthwith from the Unclaimed Property Fund. The claim shall be paid without deduction for costs of notices or sale or for service charges.

C. The State Treasurer shall not pay monies to rightful owners, or their heirs, devisees, and assigns, exceeding the reimbursement amount the Treasurer shall receive from the Mineral Owner's Fund attributable to such payments to rightful owners, or their heirs, devisees, and assigns.

D. Claims against the Mineral Owner's Fund shall be subject to the same statutory requirements and administrative rules as applicable to claims under the Uniform Unclaimed Property Act.

SECTION 6. AMENDATORY Section 43, Chapter 441, O.S.L. 2009 (62 O.S. Supp. 2009, Section 34.66), is amended to read as follows:

Section 34.66 A. The State Treasurer shall write checks or warrants in payment of claims and payrolls certified to the State Treasurer for payment by the Division of Central Accounting and Reporting or:

1. The Department of Human Services;

2. The Department of Rehabilitative Services;

3. The State Department of Health;

4. The Department of Transportation;

5. The State Department of Education;

6. The Oklahoma Department of Career and Technology Education; and

7. The institutions within The Oklahoma State System of Higher Education.

B. The State Treasurer, within such limitations as the State Treasurer may prescribe, may authorize the Director of the Office of State Finance and the entities specified in subsection A of this section to issue the checks or warrants for payment of claims and payrolls that have been certified by the respective agency.

C. The Director of the Office of State Finance and the entities specified in subsection A of this section shall provide the State Treasurer a register of each payment for each check or warrant issued. <u>To protect against fraud, information contained within the register of checks or warrants shall not be subject to the Oklahoma Open Records Act until the earlier of:</u>

<u>1. Such checks or warrants are submitted for redemption; or</u>

<u>2. Such checks or warrants are cancelled by statute.</u>

D. In lieu of checks or warrants:

1. The Director of the Office of State Finance may, with the concurrence of the State Treasurer, settle interagency claims by transfer entry; and

2. At the discretion of the State Treasurer, pay claims and payrolls by the electronic transfer of funds.

SECTION 7. AMENDATORY 62 O.S. 2001, Section 89.2, as last amended by Section 8, Chapter 433, O.S.L. 2009 (62 O.S. Supp. 2009, Section 89.2), is amended to read as follows:

Section 89.2 A. The State Treasurer is directed to invest the maximum amount of funds under control of the State Treasurer consistent with good business practices; provided that the Treasurer shall keep eighty percent (80%) or more of the money under control of the State Treasurer invested during each fiscal year based on the average daily balances during the fiscal year. Except as otherwise provided for by law, the investments shall earn not less than the rate for comparable maturities on United States Treasury obligations. Except as otherwise provided for by law, the State Treasurer may purchase and invest only in:

1. Obligations of the United States Government, its agencies and instrumentalities, or other obligations fully insured or unconditionally guaranteed as to the payment of principal and interest by the United States government or any of its agencies and instrumentalities;

2. Collateralized or insured certificates of deposit and other evidences of deposit at banks, savings banks, savings and loan associations and credit unions located in this state;

3. Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings bank, a savings and loan association or a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit shall not exceed ten percent (10%) of the cash available for investment which may be invested pursuant to this section. Not more than one-half (1/2) of the ten percent (10%) limit shall be invested in any one financial institution specified in this paragraph;

4. Prime banker's acceptances which are eligible for purchase by the Federal Reserve System and which do not exceed two hundred seventy (270) days' maturity. Purchases of prime banker's acceptances shall not exceed ten percent (10%) of the cash available for investment which may be invested pursuant to this section. Not more than three-fourths (3/4) of the ten percent (10%) limit shall be invested in any one commercial bank pursuant to this paragraph;

5. Prime commercial paper which shall not have a maturity that exceeds one hundred eighty (180) days nor represent more than ten percent (10%) of the outstanding paper of an issuing corporation. Purchases of prime commercial paper shall not exceed seven and one-half percent (7 1/2%) of the cash available for investment which may be invested pursuant to this section;

6. Investment grade obligations of state and local governments, including obligations of Oklahoma state public trusts which possess the highest rating from at least one nationally recognized rating

agency acceptable to the State Treasurer. Purchases of investment grade obligations of state and local governments shall not exceed ten percent (10%) of the cash available for investment which may be invested pursuant to this section;

7. Repurchase agreements, provided that such agreements are included within the written investment policy required by subsection D of this section that have underlying collateral consisting of those items and those restrictions specified in paragraphs 1 through 6 of this subsection;

8. Money market funds and short term bond funds regulated by the Securities and Exchange Commission and which investments consist of those items and those restrictions specified in paragraphs 1 through 7 of this subsection; and

9. Bonds, notes, debentures or other similar obligations of a foreign government which the International Monetary Fund lists as an industrialized country and for which the full faith and credit of such nation has been pledged for the payment of principal and interest; provided, that any such security shall be rated at least A- or better by Standard & Poor's Corporation or A3 or better by Moody's Investors Service, or an equivalent investment grade by a securities ratings organization accepted by the National Association of Insurance Commissioners; and provided further, that the total investment in such foreign securities at any one time shall not exceed five percent (5%) of the cash available for investment which

may be invested pursuant to this section. In no circumstance shall investments be made in bonds, notes, debentures or any similar obligations of a foreign government that:

a. is identified as a state sponsor of terrorism by the United States Department of State, or

b. any authoritarian or totalitarian government the sovereign powers of which are exercised through a single person or group of persons who are not elected by any form of legitimate popular voting.

B. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

C. The State Treasurer shall appoint an investment officer who shall perform duties related to the investment of state funds in the Office of the State Treasurer. The investment officer shall not perform or supervise any accounting functions, data processing functions or duties related to the documentation or settlement of investment transactions.

D. Investments of public funds by the State Treasurer shall be made in accordance with written policies developed by the State Treasurer. The written investment policies shall address:

1. Liquidity;

2. Diversification;

3. Safety of principal;

4. Yield;

5. Maturity and quality; and

6. Capability of investment management.

The State Treasurer shall place primary emphasis on safety and liquidity in the investment of public funds. To the extent practicable taking into account the need to use sound investment judgment, the written investment policies shall include provision for utilization of a system of competitive bidding in the investment of state funds. The written investment policies shall be designed to maximize yield within each class of investment instrument, consistent with the safety of the funds invested.

E. The State Treasurer shall select one custodial bank to settle transactions involving the investment of state funds under the control of the State Treasurer. The State Treasurer shall review the performance of the custodial bank at least once every year. The State Treasurer shall require a written competitive bid every five (5) years. The custodial bank shall have a minimum of Five Hundred Million Dollars ($500,000,000.00) in assets to be eligible for selection. Any out-of-state custodial bank shall have a service agent in the State of Oklahoma so that service of summons or legal notice may be had on such designated agent as is now or may

hereafter be provided by law. In order to be eligible for selection, the custodial bank shall allow electronic access to all transaction and portfolio reports maintained by the custodial bank involving the investment of state funds under control of the State Treasurer. The access shall be given to both the State Treasurer and to the Cash Management and Investment Oversight Commission. The requirement for electronic access shall be incorporated into any contract between the State Treasurer and the custodial bank. Neither the State Treasurer nor the custodial bank shall permit any of the funds under the control of the State Treasurer or any of the documents, instruments, securities or other evidence of a right to be paid money to be located in any place other than within a jurisdiction or territory under the control or regulatory power of the United States Government.

F. The investment policy shall specify the general philosophy, policies and procedures to be followed in the investment of state monies by the State Treasurer. The investment policy shall include, but not be limited to, the following:

1. Policy objectives;

2. Performance measure objectives;

3. Authority for investment program;

4. Possible use of an investment advisory committee;

5. Reporting and documentation of investments;

6. Authorized investment instruments;

7. Diversification of investment risk;

8. Maturity limitations;

9. Selections of financial institutions;

10. Interest controls;

11. Safekeeping of investments;

12. Investment ethics; and

13. Formal adoption of policy.

G. The State Treasurer shall provide weekly reports of all investments made by the State Treasurer ~~for that week to the Executive Review Committee of~~ if requested by the Cash Management and Investment Oversight Commission, and list any commissions, fees or payments made for services regarding such investments. The reports required by this subsection shall be delivered to the ~~Committee~~ Commission within three (3) business days of the end of the applicable week~~, and the Committee shall communicate any facts or information it deems appropriate to the Cash Management and Investment Oversight Commission and shall also prepare all reports necessary for the quarterly meeting of the Commission~~.

H. Not later than July 1 of each year, the State Treasurer shall forward a copy of the written investment policy to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Attorney General, the Bank Commissioner, and the Director of State Finance. In addition, the State Treasurer shall maintain one copy of the investment policy in

the office of the State Treasurer for public inspection during regular business hours. Copies of any modifications to the investment policy shall be forwarded to the Governor, Speaker of the House of Representatives, President Pro Tempore of the Senate, and each member of the Cash Management and Investment Oversight Commission.

SECTION 8. AMENDATORY 62 O.S. 2001, Section 89.6, as amended by Section 9, Chapter 433, O.S.L. 2009 (62 O.S. Supp. 2009, Section 89.6), is amended to read as follows:

Section 89.6 The State Treasurer may charge and collect the following fees:

1. For any returned check or electronic debit that is returned, a fee of Twenty-five Dollars ($25.00);

2. For handling and processing rejected warrant items processed by the State Treasurer, a fee of ~~forty-two cents ($0.42)~~ One Dollar ($1.00) per item;

3. For handling a stop-payment item processed by the State Treasurer on behalf of a state agency, a fee of ~~Ten Dollars ($10.00)~~ Fifteen Dollars ($15.00) for each item up to a maximum fee of ~~Two Hundred Fifty Dollars ($250.00)~~ Three Hundred Twenty-five Dollars ($325.00) per day; and

4. Beginning July 1, 2010, for expenses incurred in managing the state agency blended portfolio, an annual fee of not more than two and one-half (2 1/2) basis points which may be charged monthly

against the average daily balance of the portfolio; provided, the fees shall be collected at the time earnings are deposited to participating state agencies.

SECTION 9. AMENDATORY 62 O.S. 2001, Section 89.7, is amended to read as follows:

Section 89.7 A. The State Treasurer shall prepare monthly and annual investment performance reports of the State Treasurer's Office in the form and manner required by the Cash Management and Investment Oversight Commission after consultation with the State Treasurer which summarize recent market conditions, economic developments and anticipated investment conditions and the investment plan performance, including portfolio diversification and rates of return measured against the investment plan of the State Treasury. The annual investment performance report shall be submitted to the Commission and shall be made within ~~thirty (30)~~ sixty (60) calendar days after the end of the fiscal year. The monthly investment performance reports shall be submitted to the Executive Review Committee and shall be made within thirty (30) days after the end of the applicable month. The investment performance reports shall specify the investment strategies employed in the most recent reporting period and describe the investment portfolio of the state in terms of:

1. Securities;

2. Maturities;

3. Fund type;

4. Financial institutions from which securities were purchased, including the amounts and the city and state of location;

5. Investment return compared to budgetary expectations;

6. Average yield; and

7. Average life of the portfolio.

The investment performance reports shall also indicate any areas of concern which the State Treasurer has concerning the basic investment strategies being employed. The investment performance reports shall contain:

a. combined and individual rates of return and a list of all losses by category of investment, over periods of time;

b. the rate of return on deposits and all fees and expenses charged as to all depository financial institutions of the State Treasury and a specific review of the adequacy of the collateralization;

c. any other information that the State Treasurer may include; and

d. such other information that the Cash Management and Investment Oversight Commission created by Section 71.1 of this title may request and that the State Treasurer agrees to include in the investment performance reports.

B. To the extent that the State Treasurer should have reason to know, the State Treasurer shall also include in the investment performance reports a listing of all payments, fees, commissions, or other compensation received by any person, including but not limited to individuals, financial institutions, or investment companies or corporations, which have an investment agreement, contract, or other arrangement with the State Treasurer, or who receive any compensation as a result of a transaction involving the investment of state monies or funds or the purchase, sale, or trade of securities or bonds involving the Office of the State Treasurer. Said listings shall also include the social security or federal identification number of any person, including but not limited to individuals, financial institutions, or investment companies or corporations, receiving payments, fees, commissions, or other compensation.

C. The annual investment performance report shall be written in simple and easily understood language containing:

a. an analysis of the written investment plans developed by the Treasurer as required by law;

b. a quantitative analysis of the performance of all depository financial institutions approved by the State Treasurer, with regard to monies deposited;

c. the result of the analyses prepared pursuant to subparagraphs a and b of this paragraph compared with similar data for other states;

d. recommendations on administrative and legislative changes which are necessary to improve the performance of the State Treasury in accordance with current standards for large public fund portfolio management; and

e. a listing by object code of the expenses of the State Treasury as audited by the independent auditor provided by Section 89.10 of this title.

D. The State Treasurer shall distribute the investment performance reports to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the State Auditor and Inspector, the Attorney General, and members of the Cash Management and Investment Oversight Commission. Upon request, the State Treasurer shall make the annual investment performance report available to the members of the Legislature and the general public. The annual investment performance report shall also include an investment plan for the ensuing fiscal year.

E. The State Treasurer shall require all employees in the State Treasury to sign an anti-collusion affidavit. Execution of a false affidavit shall make such employees subject to disciplinary action,

including but not limited to termination, criminal prosecution or both.

F. The State Treasurer shall require an anti-collusion affidavit from brokers or other persons offering investment services to the State Treasury. The State Treasurer shall be prohibited from employing or doing business with any brokers or persons offering investment services to the State Treasury who have not executed such an affidavit.

G. The Cash Management and Investment Oversight Commission shall certify that the State Treasurer has delivered to the Commission the monthly and annual investment performance reports and the annual financial report required by this section. If the Commission determines that these reports have not been delivered by the State Treasurer as required by law, the Commission shall notify in writing the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Attorney General, and the State Auditor and Inspector.

SECTION 10. This act shall become effective November 1, 2010.

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