ENGROSSED SENATE
BILL NO. 1450 By: Brinkley of the Senate

and

Jackson of the House

An Act relating to the State Treasurer; amending 60 O.S. 2011, Sections 651, 674.2 and 677, which relate to the Uniform Unclaimed Property Act; modifying definition; requiring certain document be provided under specified condition; modifying conditions under which certain property is considered abandoned; authorizing State Treasurer to decline to accept certain property and providing for disposition thereof; authorizing State Treasurer to sell and convert securities under specified circumstances; amending 62 O.S. 2011, Section 89.2, which relates to investment of funds by State Treasurer; deleting investment requirement; and providing an effective date.

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

SECTION 1. AMENDATORY 60 O.S. 2011, Section 651, is amended to read as follows:

Section 651. As used in the Uniform Unclaimed Property Act, unless the context otherwise requires:

1. "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder;

2. "Attorney General" means the chief legal officer of this state;

3. "Banking organization" means any bank, trust company, savings bank, safe deposit company, private banker, or any organization defined by other law as a bank or banking organization;

4. "Business association" means a non-public corporation, joint-stock company, investment company, business trust, partnership, or association for business purposes of two or more individuals whether or not for profit, including a banking organization, financial organization, insurance company, or utility;

5. "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person;

6. "Financial organization" means a savings and loan association, building and loan association, or credit union;

7. "Holder" means a person, wherever organized or domiciled, who is:

a. in possession of property belonging to another,

b. a trustee, or

c. indebted to another on an obligation;

8. "Insurance company" means an association, corporation, fraternal or mutual benefit organization, whether or not for profit, which is engaged in providing insurance coverage, including accidental, burial, casualty, credit life, contract performance,

dental, fidelity, fire, health, hospitalization, illness, life (including endowments and annuities), malpractice, marine, mortgage, surety, and wage protection insurance;

9. "Intangible property" includes:

a. money, checks, drafts, deposits, interest, dividends, and income,

b. credit balances, customer overpayments, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances,

c. stocks and other intangible ownership interests in business associations,

d. monies deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions,

e. amounts due and payable under the terms of insurance policies, and

f. amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, <u>education</u> or similar benefits;

10. "Last-known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail;

11. "Memorandum" shall include a mark, symbol or statement indicating knowledge of or interest in funds on deposit;

12. "Mineral proceeds" includes:

a. all obligations to pay mineral proceeds resulting from the production and sale of minerals, including net revenue interest, royalties, overriding royalties, production payments, and payments under joint operating agreements, and

b. all obligations for the acquisition and retention of a mineral lease, including bonuses, delay rentals, shut-in royalties, and minimum royalties;

13. "Museum" means an institution which is located in this state and operated by a nonprofit corporation or a public agency primarily for educational, scientific, historic preservation or aesthetic purposes, and which owns, borrows, cares for, exhibits, studies archives or catalogues property. "Museum" includes, but is not limited to, historical societies, historical sites or landmarks, parks, monuments and libraries;

14. "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to the Uniform Unclaimed Property Act or the person's legal representative. Where more than one person is an

owner, the property shall not be presumed abandoned unless it has remained unclaimed by all of its owners for the periods hereinafter prescribed;

15. "Person" means an individual, business association, state or other government, governmental subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity;

16. "State" means any state, district, commonwealth, territory, insular possession, or other area subject to the legislative authority of the United States;

17. "State Treasurer" or "Treasurer" means the duly elected and acting State Treasurer of Oklahoma;

18. "Tax Commission" or "Commission" means the Oklahoma Tax Commission; and

19. "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications, or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

SECTION 2. AMENDATORY 60 O.S. 2011, 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;

4. If the property is derived from real property located in Oklahoma, a certified copy of a final decree quieting title of the decedent's real property, determining the claimant to be the successor in interest of decedent's ownership interest; ~~or~~

5. <u>If the value of the property is Five Thousand Dollars ($5,000.00) or more, a certified copy of the death certificate of the owner of the property;</u>

6. 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 3. AMENDATORY 60 O.S. 2011, Section 677, is amended to read as follows:

Section 677. A. The State Treasurer may decline to receive any property reported under the Uniform Unclaimed Property Act which the State Treasurer considers to have a value less than the expense of giving notice and of sale. The State Treasurer may promulgate rules pursuant to this subsection.

B. A holder, with the written consent of the State Treasurer and upon conditions and terms prescribed by the State Treasurer, may report and deliver property before the property is presumed abandoned. ~~Property delivered under this subsection must be held by the State Treasurer and is not presumed abandoned until such time as it otherwise would be~~ If a property holder reports and delivers

property to the State Treasurer before it is presumed abandoned under the Uniform Unclaimed Property Act and it is in the best interest of the property owner for the property to be treated as abandoned, the Treasurer shall treat the property as abandoned.

C. The State Treasurer may decline to accept weapons abandoned in safe deposit boxes which become property subject to the Uniform Unclaimed Property Act. Such property shall be deposited with a local sheriff or municipal police department.

D. If a claimant under the Uniform Unclaimed Property Act makes a verifiable and proper claim, but fails to properly transfer securities into the claimant's name within ninety (90) days of claim approval by the State Treasurer, the State Treasurer may, upon notice to claimant, sell and convert such securities to cash for the benefit of the claimant.

SECTION 4. AMENDATORY 62 O.S. 2011, 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 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 Commission within three (3) business days of the end of the applicable week.

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 5. This act shall become effective November 1, 2012.

Passed the Senate the 6th day of March, 2012.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2012.

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Presiding Officer of the House of Representatives