WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

ENROLLED

Passed March 12, 1983
In Effect Ninety Days From Passage

(By Mrs. Spencer and Mrs. Williams )
AN ACT to amend and reenact sections two, four, five, seven, eight, nine, eleven and seventeen, article eight, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto two new sections, designated sections twelve-a and twenty-three-a, all relating to establishing a fifteen or seven year period as the time necessary for property to be presumed abandoned; providing for fifteen-year period for interest bearing accounts and travelers checks; prohibiting a holder from charging a fee or ceasing payment of interest on abandoned property without a written contract between the holder and the owner allowing such charges; allowing for a presumption of abandonment of tangible personal property; requiring reports of abandoned property; requiring necessary information in such reports; establishing certain time periods for filing such reports; granting the state treasurer the authority to examine records of persons upon reasonable belief such person has failed to report property that should have been reported; granting the treasurer the authority to charge the person examined for the cost of the examination in certain instances; providing that records of abandoned property are confidential, and exceptions; providing for the sale of abandoned property; granting the treasurer the authority to enter into reciprocal agreements with other states.
Be it enacted by the Legislature of West Virginia:

That sections two, four, five, seven, eight, nine, eleven and seventeen, article eight, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article eight be further amended by adding thereto two new sections, designated sections twelve-a and twenty-three-a, all to read as follows:

ARTICLE 8. UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT.

§36-8-2. Property held by banking or financial organizations.

The following property held or owing by a banking or financial organization is presumed abandoned:

(a) Any noninterest bearing demand, savings or matured time deposit made in this state with a banking organization, or other financial organization, excluding any charges which may lawfully be withheld, if the owner has not within the immediately preceding seven years increased or decreased the amount of the deposit: Provided, That notwithstanding the fact that there has been no increase or decrease in the amount of the deposit within the seven-year period, there shall be no presumption of abandonment if the owner has within the immediately preceding year:

(1) Corresponded in writing with the organization concerning the deposit; or

(2) Otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the organization.

In any case where the owner has taken any of the actions specified in (1) or (2) of this subdivision (a) there shall thereafter be no presumption of abandonment unless and until another seven years have passed without any increase or decrease in the amount of the deposit and without any of such actions having been taken in the last year of such further seven-year period.

(b) Any interest bearing demand, savings or matured time deposit made in this state with a banking organization or other financial organization, together with any interest or dividend thereon, excluding any charges which may lawfully be with-
held, if the owner has not within the immediately preceding fifteen years increased or decreased the amount of the deposit: Provided, That notwithstanding the fact that there has been no increase or decrease in the amount of the deposit within the fifteen-year period, there shall be no presumption of abandonment if the owner has within the immediately preceding year:

(1) Presented the passbook or other similar evidence of deposit for the crediting of interest; or

(2) Corresponded in writing with the organization concerning the deposit; or

(3) Otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the organization.

In any case where the owner has taken any of the actions specified in (1), (2) or (3) of this subdivision (b) there shall thereafter be no presumption of abandonment unless and until another fifteen years have passed without any increase or decrease in the amount of the deposit and without any of such actions having been taken in the last year of such further fifteen-year period.

(c) Any noninterest bearing funds paid in this state toward the purchase of shares or other interest in a financial organization or any deposit made therewith in this state, excluding any charges that may lawfully be withheld, if the owner has not within the immediately preceding seven years increased or decreased the amount of the funds or deposit: Provided, That notwithstanding the fact that there has been no increase or decrease in the amount of the funds or deposit within said seven-year period, there shall be no presumption of abandonment if the owner has within the immediately preceding year:

(1) Corresponded in writing with the financial organization concerning the funds or deposit; or

(2) Otherwise indicate an interest in the funds or deposit as evidenced by a memorandum on file with the financial organization.
In any case where the owner has taken any of the actions specified in (1) or (2) of this subdivision (c), there shall thereafter be no presumption of abandonment unless and until another seven years have passed without any increase or decrease in the amount of the funds or deposit and without any of such actions having been taken in the last year of such further seven-year period.

(d) Any interest bearing funds paid in this state toward the purchase of shares or other interest in a financial organization or any deposit made therewith in this state, and any interest or dividends thereon, excluding any charges that may lawfully be withheld, if the owner has not within the immediately preceding fifteen years increased or decreased the amount of the funds or deposit: Provided, That notwithstanding the fact that there has been no increase or decrease in the amount of the funds or deposit within said fifteen-year period, there shall be no presumption of abandonment if the owner has within the immediately preceding year:

(1) Presented an appropriate record for the crediting of interest or dividends; or

(2) Corresponded in writing with the financial organization concerning the funds or deposit; or

(3) Otherwise indicate an interest in the funds or deposit as evidenced by a memorandum on file with the financial organization.

In any case where the owner has taken any of the actions specified in (1), (2) or (3) of this subdivision (d), there shall thereafter be no presumption of abandonment unless and until another fifteen years have passed without any increase or decrease in the amount of the funds or deposit and without any of such actions having been taken in the last year of such further fifteen-year period.

(e) Any sum payable on any check certified in this state or on any written instrument issued in this state on which a banking or financial organization is directly liable, including, by way of illustration but not of limitation, a certificate of deposit and draft, that has been outstanding for more than
seven years from the date it was payable, or from the date of
its issuance if payable on demand, unless the owner has within
the preceding year corresponded in writing with the banking
or financial organization concerning it, or otherwise indicated
an interest as evidenced by a memorandum on file with the
banking or financial organization.

(f) Any funds or other personal property, tangible or in-
tangible, removed from a safe-deposit box or any other safe-
keeping repository in this state on which the lease or rental
period has expired due to nonpayment of rental charges or
other reason, or any surplus amounts arising from the sale
thereof pursuant to law, that have been unclaimed by the
owner for more than seven years from the date on which the
lease or rental period expired.

(g) No holder may impose with respect to property de-
scribed in this section any charges due to dormancy or inac-
tivity or cease payment of interest unless there is an enforc-
able written contract between the holder and the owner of the
property pursuant to which the holder may impose those
charges or cease payment of interest.

(h) Any amount held or owing by any organization for the
payment of a travelers check on which such organization is
directly liable shall be presumed abandoned if such amount is
held or owing for payment of a travelers check which shall
have been outstanding for more than fifteen years from the
date of its sale.”

§36-8-4. Deposits and refunds held by utilities.

The following funds held or owing by any utility are pre-
sumed abandoned:

(a) Any deposit made subsequent to one thousand nine
hundred fifty-seven by a subscriber with a utility to secure pay-
ment for, or any sum paid in advance for, utility services to
be furnished in this state, less any lawful deductions, that has
remained unclaimed by the person appearing on the records
of the utility entitled thereto for more than seven years after
the termination of the services for which the deposit or ad-

cance payment was made.
(b) Any sum which a utility has been ordered to refund and which was received subsequent to one thousand nine hundred fifty-seven for utility services rendered in this state, together with any interest thereon, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than seven years after the date it became payable in accordance with the final determination or order providing for the refund.

§36-8-5. Undistributed dividends and distributions of business associations.

Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it, within seven years after the date prescribed for payment or delivery, is presumed abandoned if:

(a) It is held or owing by a business association organized under the laws of or created in this state; or

(b) It is held or owing by a business association doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last-known address of the person entitled thereto is in this state.

§36-8-7. Property held by fiduciaries.

All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within seven years after the final date for distribution of such property and the cessation of all active fiduciary duties as required by law or the instrument under which the fiduciary is acting, increased or decreased the principal, accepted payment of principal or income, corresponded in writing with the fiduciary concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:
(a) If the property is held by a banking organization or a financial organization, or by a business association or organized under the laws of or created in this state; or

(b) If it is held by a business association, doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last-known address of the person entitled thereto is in this state; or

(c) If it is held in this state by any other person.

§36-8-8. Property held by courts and public officers and agencies.

(a) All intangible personal property held for the owner by any state or federal court, public corporation, public authority, or public officer in this state, or a political subdivision thereof, that has remained unclaimed by the owner for more than seven years is presumed abandoned: Provided, That this provision shall in no way affect such property in the custody or control of any state or federal court in any pending action: Provided, however, That if any federal statute provides for the distribution of any unclaimed property subject to the jurisdiction of a federal court, this statute shall not apply.

(b) Notwithstanding the provisions of subsection (a) of this section, all intangible personal property in the custody or control of a general receiver of a state court of record appointed pursuant to the provisions of article six, chapter fifty-one of this code, that has remained unclaimed by the owner for more than seven years is presumed abandoned: Provided, That any such property in the custody or control of any such general receiver in which there is any contingent remainder interest, or any vested remainder interest which is subject to open to let in persons not yet in being or to open to let in members of any class, or any executory interest, or executory devise interest, or any base, qualified, conditional, or limited fee estate or interest, or any other qualified, conditional, limited or determinable estate or interest, shall not be presumed abandoned until such property has remained unclaimed for more than seven years after such estate or interest has vested or any such class has closed and the persons entitled to such property have been determined.
§36-8-9. Miscellaneous personal property held for another person.

All personal property not otherwise covered by this article, including any income or increment thereon and after deducting any lawful charges, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than seven years after it became payable or distributable is presumed abandoned: Provided, That this section shall not apply to such property held or owing by a utility prior to one thousand nine hundred fifty-seven: Provided, however, That no banking organization or other financial organization shall levy any charge or fee against any citizen of this state who owns any savings account or any interest therein when said account has been without activity for any period of time.


(a) Every person holding funds or other property, tangible or intangible, presumed abandoned under this article shall report to the state treasurer with respect to the property as hereinafter provided.

(b) The report shall be verified and shall 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 any property of the value of fifty dollars or more presumed abandoned under this article;

(2) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last-known address according to the life insurance corporation's records;

(3) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under fifty dollars each may be reported in aggregate;

(4) 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; and
(5) Other information which the state treasurer prescribes by rule as necessary for the administration of this article.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November first of each year as of June thirtieth next preceding, but the report of life insurance corporations shall be filed before May first of each year as of December thirty-first next preceding. The state treasurer may postpone the reporting date upon written request by any person required to file a report.

(e) If the holder of property presumed abandoned under this article knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, attempt to communicate with the owner so that the owner may take necessary steps to prevent abandonment from being presumed. A notice from the holder to the owner sent to the owner's last-known address by United States mail, postage prepaid, shall satisfy the requirements of this subsection (e).

(f) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer, and if made by a public corporation, by its chief fiscal officer.

(g) The initial report filed under this article shall include all items of property which, under the provisions hereof, would have been presumed abandoned on the effective date of this article had this article been in effect on July one, one thousand nine hundred fifty-two.

(h) The state treasurer may at reasonable times and upon reasonable notice examine the records of any person if he has reason to believe that the person has failed to report property that should have been reported pursuant to this section.
If an examination of the records of a person results in disclosure of property reportable and deliverable under this section, the treasurer may assess the cost of the examination against the holder at a rate established by administrative regulation promulgated pursuant to chapter twenty-nine-a of this code, but in no case may the charges exceed the value of the property found to be reportable and deliverable.

§36-8-12a. Records of abandoned property confidential except as to persons with claim.

Records of abandoned property kept by the state treasurer are available for inspection and copying only by an owner of such property as to the particular property he owns, or by his personal representative, next of kin, attorney at law, or such persons entitled to inherit from the owner conducting a legal audit thereof. These records are exempt from the provisions of chapter twenty-nine-b of the code.

§36-8-17. Sale of abandoned property.

(a) All abandoned property other than money delivered to the state treasurer under this article shall as soon as practicable after the delivery be sold by him to the highest bidder at public sale in whatever city in the state affords in his judgment the most favorable market for the property involved. The state treasurer may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale if, in his opinion, the probable cost of sale exceeds the value of the property.

(b) Any sale held under this section shall be preceded by a publication of notice thereof as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county where the property is to be sold. The publication shall be at least three weeks in advance of sale.

(c) The purchaser at any sale conducted by the state treasurer pursuant to this article shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them.
The state treasurer shall execute all documents necessary to complete the transfer of title.

§36-8-23a. Interstate agreements and cooperation; joint and reciprocal actions with other states.

(a) The treasurer may enter into agreements with other states to exchange information needed to enable this or another state to audit or otherwise determine unclaimed property that it or another state may be entitled to subject to a claim of custody. The treasurer by rule may require the reporting of information needed to enable compliance with agreements made pursuant to this section and prescribe the form.

(b) To avoid conflicts between the treasurer's procedures and the procedures of administrators in other jurisdictions the treasurer shall, so far as is consistent with the purposes, policies and provisions of this article before adopting, amending or repealing rules, advise and consult with administrators in other jurisdictions and take into consideration the rules of those other administrators in other jurisdictions.

(c) The treasurer may join with other states to seek enforcement of this article against any person who is or may be holding property reportable under this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 29 day of March, 1983.

Governor