WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990

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ENROLLED

HOUSE BILL No. 4722

(By Mr. Del. Farley & Kiss)

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Passed March 6, 1990

In Effect 90 Days from Passage
ENROLLED

H. B. 4722

(By Delegates Farley and Kiss)

[Passed March 6, 1990; in effect ninety days from passage.]

AN ACT to amend and reenact sections eight, eleven, sixteen and eighteen, 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 eight-a and eight-b, all relating to the uniform disposition of unclaimed property act; property held by courts; providing for recovery of abandoned property; presumption of abandonment by federal government; report of abandoned property; statute of limitations; and deposit to state general fund.

Be it enacted by the Legislature of West Virginia:

That sections eight, eleven, sixteen and eighteen, 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 be further amended by adding thereto two new sections, designated sections eight-a and eight-b, all to read as follows:

ARTICLE 8. UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT.

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

1 (a) All intangible personal property held for the 2 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 un-
claimed 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.

(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-Sa. Providing for recovery of abandoned property.

With respect to property originated or issued by this
state, any political subdivision thereof or any entity
incorporated, organized or created therein, the following
provision shall apply:

(a) Unless presumed abandoned and subject to the
custody of this state by any other provision of law, all
intangible property, including, but not limited to, any
interest, dividend, or other earnings thereon, less any
lawful charges, that is held by a business association,
federal, state or local government or governmental
subdivision, agency or entity, or any other person or
tentity, regardless of where the holder may be found, is
presumed abandoned and subject to the custody of this state as unclaimed property if:

(1) The address of the owner was never known or the last known address of the owner is unknown; and

(2) The entity originating or issuing the intangible property is in this state or any of its political subdivisions or is incorporated, organized or created in this state.

(b) Subsection (a) shall apply to all property held at the time of enactment, or at anytime thereafter, regardless of when such property became or becomes presumptively abandoned.

§36-8-8b. Presumption of abandonment of personal property held by federal government.

(a) All tangible personal property or intangible personal property, including choses in action in amounts certain, and all debts owed, entrusted funds or other property held by any federal, state or local government or governmental subdivision, agency, entity, officer or appointee thereof, shall be presumed abandoned in this state if the last known address of the owner of the property is in this state and the property has remained unclaimed for seven years: Provided, That if another provision of law provides for a presumption of abandonment and custodial taking of the subject property by this state upon the passage of a longer period of time, such longer period of time shall control.

(b) This section shall apply to all abandoned property held by any federal, state or local government or governmental subdivision, agency, entity, officer or appointee thereof, at the time of enactment, or at any time thereafter, regardless of when such property became or becomes presumptively abandoned.


(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 the thirty-first day of March of each year as of the thirty-first day of December 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 the first day of July, 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.

(i) Every person filing a report shall deliver or pay to the state treasurer all abandoned property specified in the report, at the time of the report.

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.

§36-8-16. Periods of limitation not a bar.

(1) The expiration of any period of time specified by statute or court order, during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, shall not prevent the money or property from being presumed abandoned property, nor affect any duty to file a report required by this article or to pay or deliver abandoned property to the state treasurer.
(2) Notwithstanding any other provision of law, the expiration of any period of time specified by law during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property shall not serve as a defense in any action or proceeding brought by or on behalf of the state treasurer against any federal, state or local government or governmental subdivision, agency, entity, officer or appointee thereof, for the payment or delivery of any abandoned property to the state treasurer pursuant to this chapter or to enforce or collect any penalty provided by this article.

(3) This section shall apply to all abandoned property held by any federal, state or local government or governmental subdivision, agency, entity, officer or appointee thereof, at the time of enactment, or at any time thereafter, regardless of when such property became or becomes presumptively abandoned.

§36-8-18. Deposits of funds; trust and expense fund; records of deposits.

(a) All funds received under this article, including the proceeds from the sale of abandoned property under section seventeen, shall forthwith be deposited by the state treasurer in a special fund to be known as the “trust and expense fund”. Effective the first day of July, one thousand nine hundred ninety, all funds received under this article, including the proceeds from the sale of abandoned property under section seventeen of this article, shall forthwith be deposited by the state treasurer in the general fund.

(b) From said fund the state treasurer shall make prompt payment of claims duly allowed as hereinafter provided, and shall pay the necessary costs of selling abandoned property, of mailing notices, of making publications required by this article and of paying other operating expenses and administrative expenses reasonably incurred by the treasurer in the administration and enforcement of the provisions of this article. At any time when the balance of said fund shall exceed one hundred fifty thousand dollars, the state treasurer may, and at
least once every fiscal year shall, transfer to the general
revenue fund the balance of the trust and expense fund
which shall exceed one hundred fifty thousand dollars.
The treasurer is authorized to draw his requisitions for
such sums upon the auditor in the manner provided by
law. Effective the first day of July, one thousand nine
hundred ninety, all operating expenses and administra-
tive expenses incurred by the treasurer in the admin-
istration and enforcement of the provisions of this article
shall be paid from an appropriation from the general
revenue fund. The treasurer is further directed to make
prompt payment of claims duly allowed as hereinafter
provided from the general revenue fund.

(c) Before making any deposit to said fund, the state
treasurer shall record the name and last-known address
of each person appearing from the holder's reports to be
entitled to the abandoned property, and the name and
last-known address of each insured person or annuitant,
and with respect to each policy or contract listed in the
report of a life insurance corporation, its number, the
name of the corporation and the amount due. Such
records shall be available for public inspection at all
reasonable business hours.
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 of the House of Delegates

The within is approved this the 14th day of March, 1990.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/3/90
Time 2:44 PM