Enrolled

Committee Substitute

for

Senate Bill 599

BY SENATORS HALL, CARMICHAEL, PREZIOSO AND PLYMALE, original sponsors

[Passed March 11, 2016; in effect 90 days from passage]
WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

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[Passed March 11, 2016; in effect 90 days from passage]
AN ACT to amend and reenact §36-8-2 of the Code of West Virginia, 1931, as amended, relating
generally to Uniform Unclaimed Property Act; and clarifying that presumed abandoned
property in the form of amounts owed by an insurer on a life or endowment insurance
policy or an annuity that has matured or terminated, and obligations related thereto, are
guided by policies, requirements and interpretations of the Insurance Commissioner.

Be it enacted by the Legislature of West Virginia:

That §36-8-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted
to read as follows:

ARTICLE 8. UNIFORM UNCLAIMED PROPERTY ACT.

§36-8-2. Presumptions of abandonment.

(a) Property is presumed abandoned if it is unclaimed by the apparent owner during the
time set forth below for the particular property:

(1) Traveler's check, fifteen years after issuance;

(2) Money order, seven years after issuance;

(3) Stock or other equity interest in a business association or financial organization,
including a security entitlement under article eight of the uniform commercial code, five years after
the earlier of: (i) The date of the most recent dividend, stock split or other distribution unclaimed
by the apparent owner; or (ii) the date of the second mailing of a statement of account or other
notification or communication that was returned as undeliverable or after the holder discontinued
mailings, notifications or communications to the apparent owner;

(4) Debt of a business association or financial organization, other than a bearer bond or
an original issue discount bond, five years after the date of the most recent interest payment
unclaimed by the apparent owner;

(5) A noninterest-bearing demand, savings or time deposit, including a deposit that is
automatically renewable, five years after the earlier of maturity or the date of the last indication
by the owner of interest in the property; an interest-bearing demand, savings or time deposit
including a deposit that is automatically renewable, seven years after the earlier of maturity or the
date of the last indication by the owner of interest in the property. A deposit that is automatically
renewable is deemed matured for purposes of this section upon its initial date of maturity, unless
the owner has consented to a renewal at or about the time of the renewal and the consent is in
writing or is evidenced by a memorandum or other record on file with the holder;

(6) Money or credits owed to a customer as a result of a retail business transaction, three
years after the obligation accrued;

(7) Gift certificate, three years after December 31 of the year in which the certificate was
sold, but if redeemable in merchandise only, the amount abandoned is deemed to be sixty percent
of the certificate’s face value;

(8) Amount owed by an insurer on a life or endowment insurance policy or an annuity that
has matured or terminated, three years after the obligation to pay arose or, in the case of a policy
or annuity payable upon proof of death, three years after the insured has attained, or would have
attained if living, the limiting age under the mortality table on which the reserve is based: Provided,
That the obligations set forth in this subdivision and the application of subsection (e) of this section
relating to this subdivision are guided by policies, requirements and interpretations of the
Insurance Commissioner;

(9) Property distributable by a business association or financial organization in a course
of dissolution, one year after the property becomes distributable;

(10) Property received by a court as proceeds of a class action and not distributed
pursuant to the judgment, one year after the distribution date;

(11) Property held by a court, government, governmental subdivision, agency or
instrumentality, one year after the property becomes distributable;

(12) Wages or other compensation for personal services, one year after the compensation
becomes payable;

(13) Deposit or refund owed to a subscriber by a utility, two years after the deposit or
refund becomes payable;
(14) Property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, three years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty;

(15) Warrants for payment issued by the State of West Virginia which have not been presented for payment, within six months of the date of issuance;

(16) All funds held by a fiduciary, including the state Municipal Bond Commission, for the payment of a note, bond, debenture or other evidence or indebtedness, five years after the principal maturity date, or if such note, bond, debenture or evidence of indebtedness is called for redemption on an earlier date, then the redemption date, such premium or redemption date to also be applicable to all interest and premium, if any, attributable to such note, bond, debenture or other evidence of indebtedness; and

(17) All other property, five years after the owner’s right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

(b) At the time that an interest is presumed abandoned under subsection (a) of this section, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

(c) Property is unclaimed if, for the applicable period set forth in subsection (a) of this section, the apparent owner has not communicated in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held, and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.
(d) An indication of an owner’s interest in property includes:

(1) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(2) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account;

(3) The making of a deposit to or withdrawal from a bank account; and

(4) The payment of a premium with respect to a property interest in an insurance policy; but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

(e) Property is payable or distributable for purposes of this article notwithstanding the owner’s failure to make demand or present an instrument or document otherwise required to obtain payment.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Originated in the Senate.

In effect 90 days from passage.

[Signatures]

The within [date] disappeared this the [date], 2016.

[Signature]