Committee Substitute

for

House Bill 2609

BY DELEGATES NELSON, CRISS AND ESPINOSA

[Passed March 4, 2019; in effect ninety days from
passage.]
Committee Substitute
for
House Bill 2609

BY DELEGATES NELSON, CRISS AND ESPINOSA

[Passed March 4, 2019; in effect ninety days from passage.]
AN ACT to amend and reenact §36-8-2 of the Code of West Virginia, 1931, as amended, relating to presumptions of abandonment and indication of ownership in demand, savings and time deposits held by a financial institution.

Be it enacted by the Legislature of West Virginia:

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, 15 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 60 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;
(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;

(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; and

(5) For demand, savings and time deposits held by a financial organization, any indication of the owner's interest in any demand, savings and time deposit held by the financial organization for that owner is an indication of the owner's interest in all demand, savings and time deposits held by that financial organization.

(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.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within be approved this the 25th day of March 2019.

Governor
PRESENTED TO THE GOVERNOR

MAR 09 2019

Time 6:04 p.m.