

SENATE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1075

AN ACT

To repeal sections 447.503, 447.535, 447.536, 447.547, 447.560, 447.569, and 447.584, RSMo, and to enact in lieu thereof nine new section relating to unclaimed property, with penalty provisions and an emergency clause for certain sections.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 447.503, 447.535, 447.536, 447.547,
2 447.560, 447.569, and 447.584, RSMo, are repealed and nine new
3 sections enacted in lieu thereof, to be known as sections
4 447.503, 447.534, 447.535, 447.536, 447.547, 447.548, 447.560,
5 447.569, and 447.584, to read as follows:

6 447.503. As used in sections 447.500 to 447.595, unless the
7 context otherwise requires, the following terms mean:

8 (1) "Banking organization", any bank, trust company, or
9 safe deposit company, engaged in business in this state;

10 (2) "Business association", any corporation, joint stock
11 company, business trust, partnership, limited partnership, or any
12 association for business purposes, or any mutual fund or other
13 similar entity, whether operating in the form of a corporation or
14 a trust, including but not limited to any investment companies
15 registered under the federal Investment Company Act of 1940;

16 (3) "Business credit", any credit offered by one business

1 entity to another business entity to be applied in exchange for
2 goods or services but does not have a redeemable cash value;

3 (4) "Engaged in business in this state", any transaction of
4 business within this state sufficient to support personal
5 jurisdiction in the courts of this state;

6 [(4)] (5) "Financial organization", any savings and loan
7 association, credit union, or loan and investment company engaged
8 in business in this state;

9 [(5)] (6) "Holder", any person in possession of property
10 subject to sections 447.500 to 447.595 belonging to another, or
11 who is trustee in case of a trust, or is indebted to another on
12 an obligation subject to sections 447.500 to 447.595;

13 [(6)] (7) "Insurance corporation", any association or
14 corporation transacting within this state the business of
15 property insurance or casualty insurance or life insurance on the
16 lives of persons or insurance appertaining thereto, including,
17 but not by way of limitation, endowments and annuities;

18 [(7)] (8) "Military medals", any decoration or award that
19 may be presented or awarded to a member of a unit of the armed
20 forces or national guard;

21 [(8)] (9) "Owner", a depositor in case of a deposit, a
22 beneficiary in case of a trust except a trust defined in section
23 456.500, the unclaimed property of which has not escheated
24 pursuant to the provisions of section 456.650, a creditor,
25 claimant, or payee in case of other choses in action, or any
26 person having a legal or equitable interest in property subject
27 to sections 447.500 to 447.595, or such person's legal
28 representative;

1 [(9)] (10) "Person", any individual, business association,
2 government or political subdivision, public corporation, public
3 authority, estate, trust except a trust defined in section
4 456.500, two or more persons having a joint or common interest,
5 or any other legal or commercial entity;

6 [(10)] (11) "Reasonable and necessary diligence as is
7 consistent with good business practice", efforts appropriate to
8 and commensurate with the nature and value of the property at
9 issue; however, the holder shall send a notice regarding the
10 unclaimed property via first class mail postage prepaid, marked
11 "Address Correction Requested". Such letter shall be sent by the
12 holder within twelve months prior to turning the property over to
13 the treasurer. Notwithstanding the provisions of this section,
14 the holder may treat letters sent in the ordinary course of
15 business, first class and "Address Correction Requested" as
16 satisfying the definition of "reasonable and necessary diligence
17 as is consistent with good business practice". The holder may
18 treat notices regarding the unclaimed property as satisfying the
19 "reasonable and necessary standard" for contacting owners. If
20 the postal service provides the holder with additional
21 information as part of the address correction process, the holder
22 shall send second and subsequent notices in the same format as
23 the first notice to any new address provided to the holder;

24 [(11)] (12) "Treasurer", the Missouri state treasurer;

25 [(12)] (13) "Utility", any person who owns or operates
26 within this state, for public use, any plant, equipment,
27 property, franchise, or license for the transmission of
28 communications or the production, storage, transmission, sale,

1 delivery, or furnishing of electricity, water, steam, or gas or
2 who engages in such business in this state.

3 447.534. 1. Notwithstanding the provisions of subsection 2
4 of section 447.532, section 447.533, and subsection 1 of section
5 447.545, United States savings bonds, which are unclaimed
6 property and subject to the provisions of sections 447.500 to
7 447.595 shall be deemed abandoned when they have remained
8 unclaimed for more than three years after their date of maturity
9 and such bonds and the proceeds from such bonds, including all
10 principal and interest due, in the possession of the treasurer or
11 with an owner whose last known address is located in Missouri
12 shall escheat to the state of Missouri three years after becoming
13 unclaimed property by virtue of the provisions of sections
14 447.500 to 447.595 and all property rights and legal title to and
15 ownership of such United States savings bonds and the proceeds
16 from such bonds, including all rights, powers, and privileges of
17 survivorship of any owner, co-owner, or beneficiary, shall vest
18 solely in the state of Missouri according to the procedure set
19 forth in subdivisions (1) to (3) of this subsection.

20 (1) After one hundred eighty days following the second
21 three-year period referenced in subsection 1 of this section, if
22 no claim has been approved in accordance with the provisions of
23 section 447.562 for such United States savings bonds or proceeds
24 from such bonds, the treasurer shall commence a civil action in
25 the circuit court of Cole county for a determination that such
26 United States savings bonds and the proceeds from such bonds
27 shall escheat to the state of Missouri. The treasurer may
28 postpone the bringing of such action until sufficient United

1 States savings bonds have accumulated in the treasurer's custody
2 to justify the expense of such proceedings.

3 (2) If no person shall file a claim or appear at the
4 hearing to substantiate a claim or where the court determines
5 that a claimant is not entitled to the United States savings
6 bonds or proceeds from such bonds claimed by such claimant, then
7 the court, if satisfied by evidence that the treasurer has
8 substantially complied with the laws of the state of Missouri,
9 shall enter a judgment that the subject United States savings
10 bonds and the proceeds from such bonds have escheated to the
11 state of Missouri, and all property rights and legal title to and
12 ownership of such United States savings bonds and the proceeds
13 from such bonds, including all rights, powers, and privileges of
14 survivorship of any owner, co-owner, or beneficiary, shall vest
15 solely in the state of Missouri.

16 (3) The treasurer shall redeem such United States savings
17 bonds escheated to the state of Missouri and the proceeds from
18 such redemption of United States savings bonds shall be deposited
19 in the abandoned fund account created by section 447.543.

20 2. Any person making a claim for the United States savings
21 bonds escheated to the state of Missouri, or for the proceeds
22 from such bonds, may file a claim in accordance with the
23 provisions of section 447.562. Upon providing sufficient proof
24 of the validity of such person's claim, the treasurer may pay
25 such claim in accordance with the provisions of section 447.565.

26 447.535. 1. All intangible personal property, not
27 otherwise covered by sections 447.500 to 447.595, including any
28 income or increment thereon, and deducting any lawful charges,

1 that is held or owing in this state in the ordinary course of the
2 holder's business and has remained unclaimed by the owner for
3 more than seven years or five years as provided in section
4 447.536 after it became payable or distributable is presumed
5 abandoned. Intangible personal property where the property is
6 held in a jurisdiction in which the abandonment presumption is
7 less than seven years or five years as provided in section
8 447.536 shall be accepted by the state of Missouri.

9 2. Notwithstanding any provision to the contrary, any
10 outstanding check, draft, credit balance, customer's overpayment,
11 or unidentified remittance issued to a business entity or
12 association as part of a commercial transaction in the ordinary
13 course of a holder's business shall not be presumed abandoned if
14 the holder and such business entity or association have an
15 ongoing business relationship. An ongoing business relationship
16 shall be deemed to exist if the holder has engaged in a
17 commercial, business, or professional transaction involving the
18 sale, lease, license, or purchase of goods or services with the
19 business entity or association or a predecessor-in-interest of
20 the business entity or association within the dormancy period
21 immediately following the date of the check, draft, credit
22 balance, customer's overpayment, or unidentified remittance
23 giving rise to the unclaimed property interest. As used in this
24 subsection, "dormancy period" means the period during which the
25 holder may hold the property interest before it is presumed to be
26 abandoned. A "predecessor-in-interest" is a person or entity
27 whose interest in a business entity or association was acquired
28 by its successor-in-interest, whether by purchase of the business

1 ownership interest, purchase of business assets, statutory merger
2 or consolidation, and includes successive acquisitions by
3 whatever means accomplished.

4 447.536. Except for the abandonment period for travelers
5 checks and money orders provided for in subdivision (3) of
6 section 447.505; the abandonment period for dissolution of
7 business associations, banking organizations and financial
8 organizations as provided for in section 447.527; and the
9 abandonment period for court-related bond proceeds as provided
10 for in section 447.595; all other abandonment periods referenced
11 in sections 447.505 to 447.595, shall change from seven to five
12 years beginning January 1, 2000, with the exception of payroll
13 checks which shall have the abandonment period reduced from five
14 years to three years beginning January 1, 2015. The abandonment
15 periods provision of this section shall not apply to property
16 which is held pursuant to any resolution, order or trust
17 indenture entered into prior to August 28, 1998, by a city,
18 county, school district, authority, agency or other political
19 subdivision where the abandonment period or other abandonment
20 provision specified in the resolution, order or trust indenture
21 is different than the abandonment period specified in this
22 section.

23 447.547. 1. Sections 447.500 to 447.595 shall not affect
24 property the title to which is vested in a holder by the
25 operation of a statute of limitations prior to August 13, 1984,
26 nor to any property held in a fiduciary capacity that was
27 unclaimed property prior to August 13, 1974. This subsection
28 shall not apply to property the title to which is vested in the

1 holder when the holder is a federal, state, or local government
2 or governmental subdivision, agency, entity, officer, or
3 appointee thereof.

4 2. Payment and delivery of unclaimed property to the
5 treasurer is not barred by statutes of limitations when title to
6 the property has not vested in the holder prior to August 13,
7 1984.

8 3. Sections 447.500 to 447.595 shall not apply to final
9 orders, judgments or decrees of distribution or to abandoned
10 property entered by the probate division of the circuit court
11 after August 13, 1984.

12 4. Sections 447.500 to 447.595 shall not apply to
13 institutions chartered pursuant to the provisions of an act of
14 the Congress of the United States known as the Farm Credit Act of
15 1971 and acts amendatory thereto.

16 5. In addition to other exclusions, sections 447.500 to
17 447.595 shall not apply to any property that had been unclaimed
18 prior to January 1, 1965, where the holder is a financial
19 organization or banking organization which has a principal place
20 of business in this state.

21 6. Business credits between two business entities or two
22 business associations are not subject to sections 447.500 to
23 447.595.

24 447.548. 1. The state treasurer shall not enforce this
25 chapter for a reportable period more than three years after the
26 holder:

27 (1) Filed a report with the state treasurer; or

28 (2) Gave express notice to the state treasurer of a dispute

1 under this chapter.

2 2. If a fraudulent report is filed with the intent to evade
3 escheatment of property, the state treasurer may enforce this
4 chapter within six years after the report was filed.

5 3. If no report is filed, the state treasurer may enforce
6 this chapter at any time.

7 447.560. 1. The treasurer shall retain a record of the
8 name and last known address of each person appearing from the
9 holders' reports to be entitled to the abandoned moneys and
10 property and of the name and last known address of each insured
11 person or annuitant, and with respect to each policy or contract
12 listed in the report of a life insurance corporation, its number,
13 the name of the corporation, and the amount due. The record
14 shall be available for public inspection at all reasonable
15 business hours.

16 2. Except as specifically provided by this section, no
17 information furnished to the treasurer in the holder reports,
18 including Social Security numbers or other identifying
19 information, shall be open to public inspection or made public.
20 Any officer, employee or agent of the treasurer who, in violation
21 of the provisions of this section, divulges, discloses or permits
22 the inspection of such information shall be guilty of a
23 misdemeanor.

24 3. If an amount is turned over to the state that is less
25 than fifty dollars, the amount reported may be made available as
26 public information, along with the name and last known address of
27 the person appearing from the holder report to be entitled to the
28 abandoned moneys; except that, no additional information other

1 than provided for in this section may be released, and any
2 individual other than the person appearing from the holder report
3 to be entitled to the abandoned moneys shall be governed by
4 sections 447.500 to 447.595 and other applicable Missouri law in
5 his or her use or dissemination of such information.

6 4. If the abandoned property is a military medal, the
7 treasurer is authorized to make any information, other than
8 Social Security numbers, contained in the holder report and
9 record under subsection 1 of this section, and any photograph or
10 other visual depiction of the military medal available to the
11 public in order to facilitate the identification of the original
12 owner or such owner's respective heirs or beneficiaries as
13 described under subdivision (4) of section 447.559.

14 5. The treasurer shall retain a record of the name and, if
15 known, the last known address of each person named on the United
16 States savings bonds which have escheated to the state of
17 Missouri and which have been redeemed by the treasurer under
18 section 447.534. The record shall be made public and available
19 for public inspection at all reasonable business hours. In
20 addition, if a United States savings bond is redeemed in an
21 amount that is less than fifty dollars, the amount redeemed may
22 be made available as public information. No other information
23 furnished to the treasurer in regard to such United States
24 savings bonds, including Social Security numbers or other
25 identifying information shall be open to public inspection or
26 made public. Any officer, employee or agent of the treasurer
27 who, in violation of the provisions of this section, divulges,
28 discloses, or permits the inspection of such information shall be

1 guilty of a misdemeanor.

2 447.569. 1. Any [person] claimant aggrieved by a decision
3 of the treasurer or as to whose claim the treasurer has failed to
4 act within ninety days after the filing of a claim shall be
5 entitled to a hearing under the provisions of chapter 536, and
6 the proceedings instituted by him shall be deemed a contested
7 case under chapter 536.

8 2. Any holder who has filed a report under section 447.539
9 aggrieved by a decision of the treasurer shall be entitled to a
10 hearing under the provisions of chapter 536, and the proceedings
11 instituted by such holder shall be deemed a contested case under
12 chapter 536.

13 447.584. The treasurer, with the approval of the governor,
14 may enter into agreements with any person, firm or corporation to
15 assist in the identification, collection, and processing of
16 abandoned or escheated property held by any business entity
17 domiciled and located in another state or any governmental
18 entity. The treasurer may agree to pay a fee for such services
19 based in whole or in part on a percentage of the value of any
20 property received pursuant to such agreements. Any expenses paid
21 pursuant to this section may not be deducted from the amount
22 subject to claim [by the owner] under sections 447.500 to
23 447.595.

24 Section B. Because of the need to protect the interests of
25 the state, the repeal and reenactment of sections 447.560 and
26 447.584, and the enactment of section 447.534 of this act is
27 deemed necessary for the immediate preservation of the public
28 health, welfare, peace, and safety, and is hereby declared to be

1 an emergency act within the meaning of the constitution, and the
2 repeal and reenactment of sections 447.560 and 447.584, and the
3 enactment of section 447.534 of this act shall be in full force
4 and effect upon its passage and approval.