

MAINE STATE LEGISLATURE

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12/19/19

SMC
R. 10.1

L.D. 1544

MINORITY

Date: 12/19/19

(Filing No. S-352)

JUDICIARY

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STATE OF MAINE SENATE 129TH LEGISLATURE FIRST REGULAR SESSION

COMMITTEE AMENDMENT "B" to S.P. 481, L.D. 1544, Bill, "An Act To Enact the Maine Revised Unclaimed Property Act"

Amend the bill in section 22 in §2052 by inserting after subsection 9 the following:

'10. Game-related digital content. "Game-related digital content" means digital content that exists only in an electronic game or electronic game platform. "Game-related digital content":

A. Includes:

(1) Game-play currency such as a virtual wallet, even if denominated in United States currency; and

(2) The following if for use or redemption only within the game or platform or another electronic game or electronic game platform:

(a) Points accrued through game play, which may be referred to as gems, tokens, gold and similar names; and

(b) Digital codes; and

B. Does not include an item that the issuer:

(1) Permits to be redeemed for use outside a game or platform for:

(a) Money; or

(b) Goods or services that have more than minimal value; or

(2) Otherwise monetizes for use outside a game or platform.'

Amend the bill in section 22 in §2052 in subsection 20 by striking out all of paragraph C (page 8, line 1 in L.D.) and inserting the following:

'C. A creditor, claimant or payee, for other property; and'

COMMITTEE AMENDMENT

1 Amend the bill in section 22 in §2052 in subsection 23 in paragraph B in
2 subparagraph (1) in the first line (page 8, line 16 in L.D.) by striking out the following:
3 "or depositor" and inserting the following: ', deposit or'

4 Amend the bill in section 22 in §2052 in subsection 23 in paragraph C in the first line
5 (page 8, line 35 in L.D.) by inserting after the following: "obligation" the following: 'or
6 game-related digital content'

7 Amend the bill in section 22 in §2052 in subsection 29 by striking out all of
8 paragraph B (page 9, line 32 in L.D.) and inserting the following:

9 'B. Does not include a loyalty obligation, a gift obligation or game-related digital
10 content.'

11 Amend the bill in section 22 in §2052 by renumbering the subsections to read
12 consecutively.

13 Amend the bill in section 22 in §2061 by striking out all of subsection 5 (page 10,
14 lines 29 to 34 in L.D.) and inserting the following:

15 '5. Payroll card or demand, savings or time deposit. A payroll card or demand,
16 savings or time deposit, including a deposit that is automatically renewable, 3 years after
17 the maturity of the deposit, except that a deposit that is automatically renewable is
18 deemed matured on its initial date of maturity unless the apparent owner consented in a
19 record on file with the holder to renewal at or about the time of the renewal.'

20 Amend the bill in section 22 in §2061 in subsection 7 in paragraph A by striking out
21 all of subparagraphs (1) and (2) (page 11, lines 10 to 12 in L.D.) and inserting the
22 following:

23 '(1) The insurance company has knowledge of the death of the insured; and

24 (2) The insured has attained, or would have attained if living, the limiting age
25 under the mortality table on which the reserve for the policy is based; and'

26 Amend the bill in section 22 in §2061 in subsection 7 by striking out all of paragraph
27 B (page 11, lines 13 and 14 in L.D.) and inserting the following:

28 'B. With respect to an amount owed on an annuity contract, 3 years after the date the
29 insurance company has knowledge of the death of the annuitant;'

30 Amend the bill in section 22 in §2066 in subsection 1 by striking out all of the first 2
31 lines (page 14, lines 24 and 25 in L.D.) and inserting the following:

32 '1. Presumed abandoned after 3 years. Subject to section 2070, the net obligation
33 value of a stored-value obligation is presumed abandoned on the latest of 3 years after;'

34 Amend the bill in section 22 in §2068 by striking out all of subsection 4 (page 16,
35 lines 20 to 22 in L.D.).

36 Amend the bill in section 22 in §2070 in subsection 2 in paragraph E in the 2nd line
37 (page 17, line 12 in L.D.) by striking out the following: "except for" and inserting the
38 following: 'including'

39 Amend the bill in section 22 by striking out all of §2117 (page 28, lines 23 to 30 in
40 L.D.) and inserting the following:

H. 48.

1 **'§2117. Crediting income or gain to owner's account**

2 **1. Income or gain realized.** If property other than money is delivered to the
3 administrator, the owner is entitled to receive from the administrator income or gain
4 realized or accrued on the property before the property is sold. If the property was an
5 interest-bearing demand, savings or time deposit, the administrator shall pay interest at
6 the current 10-year average cash pool rate. Interest is calculated from the date the
7 property is delivered to the administrator and ends on the expiration of 10 years after its
8 delivery or the date on which payment is made to the owner, whichever is earlier.

9 **2. Period before effective date.** Interest on interest-bearing property is not payable
10 under this section for any period before the effective date of this Act, unless authorized
11 by former chapter 41.'

12 Amend the bill in section 22 in §2120 by striking out all of subsection 2 (page 29,
13 lines 25 to 31 in L.D.) and inserting the following:

14 **'2. Proceeding within 5 years after nonfraudulent report.** The administrator may
15 not commence an action or proceeding to enforce this Act with respect to the reporting,
16 payment or delivery of property more than 5 years after the holder filed a nonfraudulent
17 report under section 2091 with the administrator. The parties may agree in a record to
18 extend the limitation in this subsection.

19 **3. Proceeding within 10 years after duty arose.** The administrator may not
20 commence an action, proceeding or examination with respect to a duty of a holder under
21 this Act more than 10 years after the duty arose.'

22 Amend the bill in section 22 in §2153 by striking out all of subsection 2 (page 34,
23 lines 10 to 15 in L.D.) and inserting the following:

24 **'2. Waive; pay or deliver directly.** The administrator may waive the requirement in
25 subsection 1 and may pay or deliver property directly to a person if:

26 **A. The person receiving the property or payment is shown to be the apparent owner**
27 **included on a report filed under section 2091; and**

28 **B. The administrator reasonably believes the person is entitled to receive the**
29 **property or payment.**

30 **If a claimant has an agreement pursuant to subchapter 13 with a professional investigator**
31 **licensed under Title 32, chapter 89, the administrator shall deliver the payment or**
32 **property to the professional investigator.'**

33 Amend the bill in section 22 in §2154 by striking out all of subsections 2 and 3 (page
34 34, lines 21 to 30 in L.D.) and inserting the following:

35 **'2. Approve or deny claim within 90 days.** Not later than 90 days after a claim is
36 filed and completed under section 2153, subsection 1, the administrator shall approve or
37 deny the claim and give the claimant, or professional investigator licensed under Title 32,
38 chapter 89 under an agreement with the claimant pursuant to subchapter 13, notice in a
39 record of the decision. A claim is complete when a claimant has provided all the
40 information and documentation requested by the administrator necessary to prove legal
41 ownership of the property.

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3. Claim denied; procedure; amended claim. If the claim is denied under subsection 2:

A. The administrator shall inform the claimant, or professional investigator under an agreement with the claimant pursuant to subchapter 13, of the reason for the denial; and

B. The claimant, or professional investigator under an agreement with the claimant pursuant to subchapter 13, may file an amended claim with the administrator or commence an action under section 2156.'

Amend the bill in section 22 in §2155 by striking out all of subsection 1 (page 34, lines 34 to 37 and page 35, lines 1 to 3 in L.D.) and inserting the following:

'1. Pay or deliver within 30 days. Not later than 30 days after a claim is approved under section 2154, subsection 2, the administrator shall pay or deliver to the owner the property or pay to the owner the net proceeds of a sale of the property, together with income or gain to which the owner is entitled under section 2117. If a claimant has an agreement pursuant to subchapter 13 with a professional investigator licensed under Title 32, chapter 89, the administrator shall deliver the payment or property to the professional investigator. On request of the owner, the administrator may sell or liquidate a security and pay the net proceeds to the owner, even if the security had been held by the administrator for less than one year or the administrator has not complied with the notice requirements under section 2131.'

Amend the bill in section 22 in §2169 by adding at the end a new paragraph to read:

'At least 60 days before assigning a person under contract with the administrator under this section to conduct an examination, the administrator shall demand in a record that the person to be examined submit a report and deliver property that is previously unreported.'

Amend the bill in section 22 by inserting after §2170 the following:

§2171. Limit on future employment

The administrator or an individual employed by the administrator who participates in, recommends or approves the award of a contract under section 2169 on or after the effective date of this Act may not be employed by, contracted with or compensated in any capacity by the contractor or an affiliate of the contractor for 2 years after the latest of participation in, recommendation of or approval of the award or conclusion of the contract.'

Amend the bill in section 22 by striking out all of §§2201 and 2202 (page 43, lines 12 to 35 and page 44, lines 1 to 18 in L.D.) and inserting the following:

§2201. Agreements to locate property

1. Agreements within 24 months. An agreement by an owner the primary purpose of which is to locate, deliver, recover or assist in the recovery of property that is presumed abandoned is void and unenforceable if it was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is 24 months after the date the property is paid or delivered to the administrator. This

1 subsection does not apply to an owner's agreement with an attorney to file a claim as to
2 identified property or contest the administrator's denial of a claim.

3 2. Agreement requirements. An agreement by an owner the primary purpose of
4 which is to locate, deliver, recover or assist in the recovery of property is enforceable
5 only if the agreement is in writing, clearly sets forth the nature of the property and the
6 services to be rendered, is signed by the apparent owner and states the value of the
7 property before and after the fee or other compensation has been deducted.

8 3. Mineral proceeds. If an agreement covered by this section applies to mineral
9 proceeds and the agreement contains a provision to pay compensation that includes a
10 portion of the underlying minerals or any mineral proceeds not then presumed
11 abandoned, the provision is void and unenforceable.

12 4. Unconscionable compensation. An agreement covered by this section that
13 provides for compensation that is unconscionable is unenforceable except by the owner.
14 An owner who has agreed to pay compensation that is unconscionable, or the
15 administrator on behalf of the owner, may maintain an action to reduce the compensation
16 to a conscionable amount. The court may award reasonable attorney's fees to an owner
17 who prevails in the action.

18 5. Other grounds not precluded. This section does not preclude an owner from
19 asserting that an agreement covered by this section is invalid on grounds other than
20 unconscionable compensation.

21 6. Limitation on fees or compensation. Fees or compensation under agreements
22 made more than 24 months but less than 36 months after the date the property is paid or
23 delivered to the administrator may not exceed 15%.

24 7. Unfair trade practice. A person who makes a claim for compensation in
25 violation of this section commits an unfair trade practice in violation of Title 5, section
26 207.'

27 Amend the bill in section 22 by striking out all of §2222 (page 48, lines 4 to 14 in
28 L.D.) and inserting the following:

29 **'§2222. Transitional provision**

30 This Act does not relieve a holder of a duty that arose before October 1, 2019 to
31 report, pay or deliver property. Subject to section 2120, subsection 2, a holder that did
32 not comply with the law governing unclaimed property before October 1, 2019 is subject
33 to applicable provisions for enforcement and penalties in effect before October 1, 2019.'

34 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
35 section number to read consecutively.

36 **SUMMARY**

37 This amendment is the minority report of the committee. It differs from the majority
38 report in 2 ways.

39 First, it provides that before the administrator requires a person who is required to file
40 a report with the administrator to be subject to an examination of records by the

1 administrator's contractor to determine compliance, the administrator is required to
2 demand in a record that the person submit a report and deliver property that is previously
3 unreported. The demand must be made at least 60 days before assigning the contractor to
4 conduct the examination. This language is part of the Revised Uniform Unclaimed
5 Property Act.

6 Second, this amendment prohibits the administrator or an employee of the
7 administrator from being employed or compensated by any entity that is contracted to
8 conduct examinations for 2 years after the latest participation in, recommendation of or
9 approval of the award or conclusion of the contract. This language is part of the Revised
10 Uniform Unclaimed Property Act.

11 **FISCAL NOTE REQUIRED**

12 **(See attached)**



129th MAINE LEGISLATURE

LD 1544

LR 1887(03)

An Act To Enact the Maine Revised Unclaimed Property Act

Fiscal Note for Bill as Amended by Committee Amendment "B" (S 352)

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund
Minor revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system.
The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.
The collection of additional filing fees may increase General Fund and other dedicated revenue by minor amounts.

Fiscal Detail and Notes

The Office of the State Treasurer administers the unclaimed property function of the State. That office has indicated that the changes in this bill will have no fiscal impact. Therefore, the revenues turned over annually to the General Fund from this function are not expected to be affected by the provisions of this bill.