

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 1355

H. P. 921

House of Representatives, February 13, 1963

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Pease of Wiscasset.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT Relating to the Uniform Disposition of Unclaimed Property Act.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 18-A, additional. The Revised Statutes are amended by adding a new chapter 18-A, to read as follows:

‘Chapter 18-A.

Uniform Disposition of Unclaimed Property Act.

Sec. 1. Definitions. As used in this chapter, unless the context otherwise requires:

I. Banking organization. “Banking organization” means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company or a private banker engaged in business in this State.

II. Business association. “Business association” means any corporation other than a public corporation, joint stock company, business trust, partnership or any association for business purposes of 2 or more individuals.

III. Financial organization. “Financial organization” means any savings and loan association, building and loan association, credit union, cooperative bank or investment company engaged in business in this State.

IV. Holder. “Holder” means any person in possession of property subject to this chapter belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this chapter.

V. Life insurance corporation. “Life insurance corporation” means any association or corporation transacting within this State the business of insur-

ance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

VI. Owner. "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to this chapter, or his legal representative.

VII. Person. "Person" means any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, 2 or more persons having a joint or common interest, or any other legal or commercial entity.

VIII. Utility. "Utility" means any person who owns or operates within this State, for public use, any plant, equipment, property, franchise or license for the transmission of communications or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam or gas.

Sec. 2. Property held by banking or financial organizations. The following property held or owing by a banking or financial organization is presumed abandoned:

I. Time deposits in banks. Any demand, savings or matured time deposits made in this State with a banking organization, together with any interest or dividend thereon, excluding any charges that may lawfully be withheld, unless the owner has, within 7 years:

A. Increased or decreased the amount of the deposit, or presented the pass-book or other similar evidence of the deposit for the crediting of interest; or

B. Corresponded in writing with the banking organization concerning the deposit; or

C. Otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the banking organization.

II. Shares in a financial organization. Any funds paid in this State toward the purchase of shares or other interest in a financial organization, or any deposit made therewith in this State, and any interest or dividends thereon, excluding any charges that may lawfully be withheld, unless the owner has within 7 years:

A. Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends; or

B. Corresponded in writing with the financial organization concerning the funds or deposit; or

C. Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum on file with the financial organization.

III. Checks. Any sum payable on checks certified in this State or on written instruments issued in this State on which a banking or financial organization is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts and traveler's checks, that has been outstanding for

more than 7 years from the date it was payable, or from the date of its issuance if payable on demand, unless the owner has within 7 years corresponded in writing with the banking or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization.

IV. Contents of safe deposit boxes. Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safe-keeping repository or agency, or collateral deposit box in this State on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by the owner for more than 7 years from the date on which the lease or rental period expired.

Sec. 3. Unclaimed funds held by life insurance corporations. Unclaimed funds, as defined in this section, held and owing by a life insurance corporation shall be presumed abandoned if the last known address, according to the records of the corporation, of the person entitled to the funds is within this State. If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the corporation.

"Unclaimed funds," as used in this section, means all moneys held and owing by any life insurance corporation unclaimed and unpaid for more than 7 years after the moneys became due and payable as established from the records of the corporation under any life or endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceding 7 years, assigned, readjusted or paid premiums on the policy, or subjected the policy to loan, or corresponded in writing with the life insurance corporation concerning the policy. Moneys otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required.

Sec. 4. Deposits and refunds held by utilities. The following funds held or owing by any utility are presumed abandoned.

Any deposit made by a subscriber with a utility to secure payment for, or any sum paid in advance for, utility services to be furnished in this State, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than 7 years after the termination of the services for which the deposit or advance payment was made.

Any sum which a utility has been ordered to refund and which was received for utility services rendered in this State, together with any interest thereon, less

any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than 7 years after the date it became payable in accordance with the final determination or order providing for the refund.

Sec. 5. Undistributed dividends and distributions of business associations. Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment on principal or other sum held or owing by a business association for or to a share holder, certificate holder, member, bondholder or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it, within 7 years after the date prescribed for payment or delivery, is presumed abandoned if:

I. Business association organized in State. It is held or owing by a business association organized under the laws of or created in this State; or

II. Business association doing business in State. It is held or owing by a business association doing business in this State, but not organized under the laws of or created in this State, and the records of the business association indicate that the last known address of the person entitled thereto is in this State.

Sec. 6. Property of business associations and banking or financial organizations held in course of dissolution. All intangible personal property distributable in the course of a voluntary dissolution of a business association, banking organization or financial organization organized under the laws of or created in this State, that is unclaimed by the owner within 2 years after the date for final distribution, is presumed abandoned.

Sec. 7. Property held by fiduciaries. All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within 7 years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:

I. Association organized in State. If the property is held by a banking organization or a financial organization, or by a business association organized under the laws of or created in this State; or

II. Association doing business in State. If it is held by a business association, doing business in this State, but not organized under the laws of or created in this State, and the records of the business association indicate that the last known address of the person entitled thereto is in this State; or

III. Others. If it is held in this State by any other person.

Sec. 8. Property held by state courts and public officers and agencies. All intangible personal property held for the owner by any court, public corporation, public authority or public officer of this State, or a political subdivision

thereof, that has remained unclaimed by the owner for more than 7 years is presumed abandoned.

Sec. 9. Miscellaneous personal property held for another person. All intangible personal property, not otherwise covered by this chapter, including any income or increment thereon and deducting any lawful charges, that is held or owing in this State in the ordinary course of the holder's business and has remained unclaimed by the owner for more than 7 years after it became payable or distributable is presumed abandoned.

Sec. 10. Reciprocity for property presumed abandoned or escheated under the laws of another state. If specific property which is subject to sections 2, 5, 6, 7 and 9 is held for or owed or distributable to an owner whose last known address is in another state by a holder who is subject to the jurisdiction of that state, the specific property is not presumed abandoned in this State and subject to this chapter if:

I. Abandoned under laws of another state. It may be claimed as abandoned or escheated under the laws of such other state; and

II. Reciprocity. The laws of such other state make reciprocal provision that similar specific property is not presumed abandoned or escheatable by such other state when held for or owed or distributable to an owner whose last known address is within this State by a holder who is subject to the jurisdiction of this State.

Sec. 11. Report of abandoned property.

I. Report. Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report to the Treasurer of State with respect to the property as hereinafter provided.

II. Contents. The report shall be verified and shall include:

A. 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 \$3 or more presumed abandoned under this chapter;

B. 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;

C. 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 \$3 each may be reported in aggregate;

D. 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

E. Other information which the Treasurer of State prescribes by rule as necessary for the administration of this chapter.

III. Names of prior holders. 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 address of each holder of the property.

IV. Time of filing. The report shall be filed before November 1st of each year as of June 30th next preceding, but the report of life insurance corporations shall be filed before May 1st of each year as of December 31st next preceding. The Treasurer of State may postpone the reporting date upon written request by any person required to file a report.

V. If owner known. If the holder of property presumed abandoned under this chapter 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, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner.

VI. Verification. 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.

VII. Initial report. The initial report filed under this chapter shall include all items of property that would have been presumed abandoned if this chapter had been in effect during the 10-year period preceding its effective date.

Sec. 12. Notice and publication of lists of abandoned property.

I. Publication of notice. Within 120 days from the filing of the report required by section 11, the Treasurer of State shall cause notice to be published at least once each week for 2 successive weeks in an English language newspaper of general circulation in the county in this State in which is located the last known address of any person to be named in the notice. If no address is listed or if the address is outside this State, the notice shall be published in the county in which the holder of the abandoned property has his principal place of business within this State.

II. Contents. The published notice shall be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property," and shall contain:

A. The names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice within the county as specified.

B. A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the Treasurer of State.

C. A statement that if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction within 65 days from the date of the 2nd published notice, the abandoned property will be placed not later than 85 days after

such publication date in the custody of the Treasurer of State to whom all further claims must thereafter be directed.

III. Mailed notice. Within 120 days from the receipt of the report required by section 11, the Treasurer of State shall mail a notice to each person having an address listed therein who appears to be entitled to property presumed abandoned under this chapter.

IV. Contents. The mailed notice shall contain:

- A. A statement that, according to a report filed with the Treasurer of State, property is being held to which the addressee appears entitled.
- B. The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.
- C. A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the Treasurer of State to whom all further claims must be directed.

Sec. 13. Payment or delivery of abandoned property. Every person who has filed a report as provided by section 11 shall within 20 days after the time specified in section 12 for claiming the property from the holder pay or deliver to the Treasurer of State all abandoned property specified in the report, except that, if the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in section 12, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the Treasurer of State, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

Sec. 14. Relief from liability by payment or delivery. Upon the payment or delivery of abandoned property to the Treasurer of State, the State shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers abandoned property to the Treasurer of State under this chapter is relieved of all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property. Any holder who has paid moneys to the Treasurer of State pursuant to this chapter may make payment to any person appearing to such holder to be entitled thereto, and upon proof of such payment and proof that the payee was entitled thereto, the Treasurer of State shall forthwith reimburse the holder for the payment.

Sec. 15. Income accruing after payment or delivery. When property is paid or delivered to the Treasurer of State under this chapter, the owner is not entitled to receive income or other increments accruing thereafter.

Sec. 16. Periods of limitation not a bar. 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 pre-

sumed abandoned property, nor affect any duty to file a report required by this chapter or to pay or deliver abandoned property to the Treasurer of State.

Sec. 17. Sale of abandoned property. All abandoned property other than money delivered to the Treasurer of State under this chapter shall within one year after the delivery be sold by him to the highest bidder at public sale in whatever city in the State affords in his judgment the most favorable market for the property involved. The Treasurer of State may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale if in his opinion, the probable cost of sale exceeds the value of the property.

Any sale held under this section shall be preceded by a single publication of notice thereof, at least 3 weeks in advance of sale in an English language newspaper of general circulation in the county where the property is to be sold.

The purchaser at any sale conducted by the Treasurer of State pursuant to this chapter shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The Treasurer of State shall execute all documents necessary to complete the transfer of title.

Sec. 18. Deposit of funds. All funds received under this chapter, including the proceeds from the sale of abandoned property under section 17, shall forthwith be deposited by the Treasurer of State in General Fund of the State, except that the Treasurer of State shall retain in a separate trust fund, an amount not exceeding \$25,000, from which he shall make prompt payment of claims duly allowed by him as provided. Before making the deposit he shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and of 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. The record shall be available for public inspection at all reasonable business hours.

Before making any deposit to the credit of the General Fund, the Treasurer of State may deduct: any costs in connection with sale of abandoned property, any costs of mailing and publication in connection with any abandoned property, and reasonable service charges.

Sec. 19. Claim for abandoned property paid or delivered. Any person claiming an interest in any property delivered to the State under this chapter may file a claim thereto or to the proceeds from the sale thereof on the form prescribed by the Treasurer of State.

Sec. 20. Determination of claims. The Treasurer of State shall consider any claim filed under this chapter and may hold a hearing and receive evidence concerning it. If a hearing is held, he shall prepare a finding and a decision in writing on each claim filed, stating the substance of any evidence heard by him and the reasons for his decision. The decision shall be a public record.

If the claim is allowed, the Treasurer of State shall make payment forthwith.

The claim shall be paid without deduction for costs of notices or sale or for service charges.

Sec. 21. Judicial action upon determinations. Any person aggrieved by a decision of the Treasurer of State or as to whose claim the Treasurer of State has failed to act within 90 days after the filing of the claim, may commence an action in the Superior Court to establish his claim. The proceeding shall be brought within 90 days after the decision of the Treasurer of State or within 180 days from the filing of the claim if the Treasurer of State fails to act. The action shall be tried de novo without a jury.

Sec. 22. Election to take payment or delivery. The Treasurer of State, after receiving reports of property deemed abandoned pursuant to this chapter, may decline to receive any property reported which he deems to have a value less than the cost of giving notice and holding sale, or he may, if he deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates. Unless the holder of the property is notified to the contrary within 120 days after filing the report required under section 11, the Treasurer of State shall be deemed to have elected to receive the custody of the property.

Sec. 23. Examination of records. The Treasurer of State may at reasonable times and upon reasonable notice examine the records of any person if he has reason to believe that such person has failed to report property that should have been reported pursuant to this chapter.

Sec. 24. Proceeding to compel delivery of abandoned property. If any person refuses to deliver property to the Treasurer of State as required under this chapter, he shall bring an action in a court of appropriate jurisdiction to enforce such delivery.

Sec. 25. Penalties. Any person who willfully fails to render any report or perform other duties required under this chapter shall be punished by a fine of \$50 for each day such report is withheld, but not more than \$1,000.

Any person who willfully refuses to pay or deliver abandoned property to the Treasurer of State as required under this chapter shall be punished by a fine of not less than \$500 nor more than \$2,500, or imprisonment for not more than 11 months, or by both.

Sec. 26. Rules and regulations. The Treasurer of State is authorized to make necessary rules and regulations to carry out this chapter.

Sec. 27. Effect of laws of other states. This chapter shall not apply to any property that has been presumed abandoned or escheated under the laws of another state prior to the effective date of this chapter.

Sec. 28. Uniformity of interpretation. This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Sec. 29. Short title. This chapter may be cited as the Uniform Disposition of Unclaimed Property Act.'

Sec. 2. R. S., c. 53, § 40, repealed. Section 40 of chapter 53 of the Revised Statutes is repealed.

Sec. 3. R. S., c. 53, § 112, amended. The last 4 sentences of section 112 of chapter 53 of the Revised Statutes, as amended, are further amended to read as follows:

'The court may thereupon order the trustee or trustees, after payment of all their expenses and fees, to pay over the funds in their hands distributable to said stockholders to the Treasurer of State, together with a statement giving the names of such stockholders, the number of shares held thereby, the amount due each, the same to be held ~~in trust for a period of 20 years for payment to the person or persons establishing a legal right thereto as unclaimed property under chapter 18-A.~~ Any claimant to said funds shall make application within said 20 year period to the Superior Court which, if satisfied as to the claimant's legal right to the fund, shall issue an order directing the Treasurer of State to pay said fund to the claimant and said fund shall be paid as directed. At the end of said 20 year period, any funds remaining in the State Treasury shall escheat to the State. Any income earned on such funds shall be paid into the General Funds as compensation for administration.'

Sec. 4. R. S., c. 59, § 1-O, repealed. Section 1-O of chapter 59 of the Revised Statutes, as enacted by section 1 of chapter 385 of the public laws of 1961, is repealed.

Sec. 5. R. S., c. 59, § 19-G, sub-§ IX, repealed. Subsection IX of section 19-G of chapter 59 of the Revised Statutes, as enacted by section 1 of chapter 380 of the public laws of 1955 and as amended, is repealed.

Sec. 6. R. S., c. 59, § 73, amended. The last 2 sentences of section 73 of chapter 59 of the Revised Statutes, as amended by chapter 77 of the public laws of 1959, are further amended to read as follows:

'When it appears upon the settlement of the account of the receiver of such an institution that there is remaining in his hands funds due depositors who cannot be found and whose heirs or legal representatives are unknown, the court may order such unclaimed funds to be paid into the State Treasury, together with a statement giving the names of such depositors and the amount due each, the same to be held ~~in trust for 20 years thereafter to be paid to the person or persons having established a lawful right thereto when made to appear upon proper proceedings instituted in the court ordering such disposition of such unclaimed funds provided, however, that whenever any such unclaimed fund is in an amount less than \$200, the claimant thereto may make application to any justice of the supreme judicial court or of the superior court who may, after identification to him satisfactory, issue an order under the seal of the supreme judicial court or of the superior court directing the treasurer of state to pay said fund to the claimant therein named, and said fund shall be paid as directed. Any income earned on such funds shall be paid into the General Fund as compensation for administration as unclaimed property under chapter 18-A.~~

Sec. 7. R. S., c. 59, § 120, repealed. Section 120 of chapter 59 of the Revised Statutes, as amended, is repealed.

Sec. 8. R. S., c. 59, § 157-Z-6, repealed. Section 157-Z-6 of chapter 59 of the Revised Statutes, as enacted by section 1 of chapter 198 of the public laws of 1961, is repealed.

Sec. 9. R. S., c. 156, § 24, repealed. Section 24 of chapter 156 of the Revised Statutes is repealed.