

MAINE STATE LEGISLATURE

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STATE OF MAINE (Filing No. H-1136)
HOUSE OF REPRESENTATIVES
108TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A " to H.P. 2043, L.D. 2109, Bill,
"AN ACT Relating to Abandoned Property."

Amend the Bill by striking out all of the last underlined paragraph of section 2 and inserting in its place the following:

'All moneys in unclaimed accounts in each financial institution authorized to do business in this State shall be disposed of according to Title 33, chapter 27.'

Further amend the Bill by striking out all of that part designated "§1121." of section 5 and inserting in its place the following:

'§1121. Undistributed assets

Upon the voluntary or involuntary dissolution of a corporation, the portion of the assets distributable to a creditor or shareholder shall be disposed of according to Title 33, chapter 27, whenever ^{the} /creditor or shareholder is one who:

1. Unknown. Is unknown or cannot be found;
2. Disability. Is under disability and for whom there is no person legally competent to receive the distributive portion; or
3. Refused distribution. Fails or refuses to accept his distribution.'

Further amend the Bill by inserting after section 5 the following:

'Sec. 5-A. 17 MRSA §2853, 2nd ¶, first 2 sentences

are repealed as follows:

~~Personal property located within said nuisance shall be removed upon written notice of the municipal officers sent by certified mail at least 14 days prior to the abatement of said nuisance. The notice shall be sent to the owner or owners at their last known address and shall specify that unless said personal property is removed it will be disposed of by the municipality.'~~

Further amend the Bill in section 8 by inserting after subsection 6 of that part designated "§1302." the following:

'7. Property. "Property" means tangible and intangible personal property, and shall not include real property.'

Further amend the Bill in section 8 by renumbering subsections 7 to 9 to be subsections 8 to 10 of that part designated "§1302."

Further amend the Bill in section 8/by striking out ^{in that part designated "§1303"} in the last line of subsection 2, paragraph C, the underlined punctuation and word "; or" and inserting in its place a semicolon.

Further amend the Bill in section 8/by striking out ^{in that part designated "§1303"} in the last line of subsection 2, paragraph D, the underlined period and inserting in its place the underlined punctuation and word '; or'

Further amend the Bill in section 8 by inserting at the end of that part designated "§1303." the following:

'E. If the intangible property is a sum payable on a money order, traveler's check or similar written instrument, and

(1) The instrument was purchased within the State, as shown by the records of the holder;

(2) The place of purchase of the instrument is not shown in the records of the holder and the holder's principal place of business is within the State; or

(3) The place of purchase of the instruments, as shown by the records of the holder, is within a jurisdiction, the laws of which do not provide for the escheat or

custodial taking of the property, and the holder's principal place of business is within the State.'

Further amend the Bill in section 8 by striking out in the 3rd line of subsection 2 of that part designated "§1304." (2nd and 3rd lines in L.D.) the underlined words "or other business association"

Further amend the Bill in section 8 by inserting after subsection 2 of that part designated "§1304." the following:

'3. Traveler's checks. Any sum payable on a traveler's check, money order or a similar written instrument on which a financial institution or other business association is directly liable shall be presumed abandoned if, within 15 years from the date payable, or from the date of issuance, if payable on demand, the owner has not:

- A. Negotiated the instrument;
- B. Corresponded in writing with the financial institution or other business association concerning it;
nor
- C. Otherwise indicated an interest as indicated by a writing on file with the financial institution or other business association.'

Further amend the Bill in section 8 by renumbering subsection 3 of that part designated "\$1304." to be subsection 4.

Further amend the Bill in section 8 by striking out all of subsection 4 of that part designated "\$1304." and inserting in its place the following:

'5. Charges, interest or dividends on abandoned property.

- A. Reasonable service charges may be levied against deposits or accounts during the period of inactivity prior to the application of the presumption of abandonment. The Superintendent of Banking shall establish a maximum charge that may be reasonable under this paragraph.
- B. Interest or dividends due on any deposits, accounts, funds or shares presumed to be abandoned shall not be discontinued or diverted because of the inactivity or during the period prior to abandonment.'

Further amend the Bill in section 8 by striking out in the 3rd line of subsection 1 of that part designated '§1307.' (2nd line in L.D.) the underlined words "for furnishing services" and inserting in their place the underlined words 'as an advance for services to be furnished'

Further amend the Bill in section 8 by striking out all that part designated "§1309." and inserting in its place the following:

'§1309. Property held in the course of dissolution

All property distributable in the course of a voluntary or involuntary dissolution of a business association, financial institution, insurer or utility shall be presumed abandoned if it is unclaimed by the date of final dissolution. This property shall be reported, paid over or delivered immediately to the Treasurer of State, but the Treasurer of State shall not sell, destroy or dispose of the property, as provided under section 1357, until 6 months after the date of final dissolution, unless the property is perishable, seasonal or in a condition requiring immediate sale, destruction or disposal.'

Further amend the Bill in section 8 by inserting after the underlined word "property" in the 2nd line of that part designated "§1311." the underlined words/ ^{and punctuation} 'not otherwise covered in this chapter, and'

Further amend the Bill in section 8 by inserting after the underlined words "All ^{property,}" in the first line of subsection 1 of that part designated "§1312." the underlined words, figure and punctuation 'with a fair market value of \$1,000 or more,' ; and by striking out in the second line/ ^(first line in L.D.) of subsection 1 the underlined word "section" and inserting the underlined word 'chapter'

Further amend the Bill in section 8 by inserting at the end of that part designated "§1353." the following:

'4. Exception for certain municipally acquired property. This section shall not apply to tangible personal property located in real property acquired by a municipality for taxes or tangible personal property located in "dangerous buildings," as described by Title 17, section 2851. Personal property located within real property acquired by a municipality for taxes or within "dangerous buildings" shall be removed by the owner or owners within 21 days after written notice to do so by the municipal officers. The notice shall be sent by certified mail, return receipt requested, to the owner or owners at their last known address. The notice shall specify that unless the tangible personal property is removed it will be disposed of by the municipality. Any municipality which has complied with this / subsection shall not be liable for the disposal of tangible personal property under this section.'

Further amend the Bill in section 8 by striking out in the 6th line of subsection 3 of that part designated "§1359." (5th line in L.D.) the underlined word "of" and inserting the underlined word 'to'

Further amend the Bill in section 8 by striking out all of the first underlined sentence of subsection 2 of that part designated "§1361." and inserting in its place the following:

'The Attorney General, at the request of the Treasurer of State, may bring an action to secure a judgment against the holder of any property presumed abandoned under this chapter, for the descent and devolution of that property to the State as an escheat.'

Further amend the bill in section 8 by striking out all of that part designated "§1366."

Further amend the Bill by striking out all of the first paragraph of section 9 and inserting in its place the following:

'Sec. 9. Transition and application. Any person holding property that was not required to be reported, delivered or paid to any state agency as abandoned property under the laws of this State prior to January 1, 1979, and which on December 31, 1978, has been held for a period greater than the period for abandonment established by this Act, is not required to report, deliver or pay that property to the Treasurer of State. All other property which was not required to be reported, delivered or paid prior to January 1, 1979, but which became inactive on or after January 1, 1969, or, in the case of traveler's checks, money orders or similar written instruments, January 1, 1964, shall be reported, delivered and paid as required by this Act.'

Further amend the Bill in section 9 by striking out all of the next to the last paragraph and inserting in its place the following:

'This Act shall not effect any duty to file a report or deliver or pay to any state agency any abandoned property under the laws of this State prior to January 1, 1979.'

Statement of Fact

This amendment corrects errors in the language of the bill and makes the following major changes:

1. Provides a specific section that covers traveler's checks and money orders and establishes a 15-year abandonment period to conform to the generally accepted length of time;
2. Deletes from the Act's coverage any written instruments on which a business association is directly liable if they are worth less than \$1,000;
3. Limits the service charges that may be levied during a period of inactivity and authorizes the Superintendent of Banking to establish a maximum limit on those charges;
4. Reduces the period of abandonment on property held in the course of a dissolution. This property shall now be delivered immediately after the final dissolution, but shall be held by the Treasurer/^{of State}for at least 6 months after receipt;
5. Limits the scope of the "catch-all" section to property with a fair market value of \$1,000 or more;
6. Exempts from the Act tangible personal property found in municipally acquired real property, provided written notice

is given to the owners; and :

7. Changes the application clause so that the Act only applies to property that becomes presumptively abandoned on or after the effective date.

Reported by the Committee on State Government.

Reproduced and distributed under the direction of the Clerk of the House.

3/9/78

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