

1 AMENDMENT TO HOUSE BILL 3557

2 AMENDMENT NO. _____. Amend House Bill 3557 by replacing
3 the title with the following:

4 "AN ACT concerning unclaimed property."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "Section 5. The Uniform Disposition of Unclaimed
8 Property Act is amended by changing Sections 10.6, 11, 12,
9 18, and 20 as follows:

10 (765 ILCS 1025/10.6)

11 Sec. 10.6. Gift certificates and gift cards.

12 (a) This Act applies to a gift certificate or gift card
13 only if:

14 (i) the gift certificate or gift card contains an
15 expiration date or expiration period; and

16 (ii) none of the exceptions in this Section apply.

17 (b) This Act does not apply to a gift certificate or
18 gift card that contains an expiration date or expiration
19 period if:

20 (i) the gift certificate or gift card was issued
21 before the effective date of this amendatory Act of the

1 92nd General Assembly; and

2 (ii) it is the policy and practice of the issuer of
3 the gift certificate or gift card to honor the gift
4 certificate or gift card after its expiration date or the
5 end of its expiration period and the issuer posts written
6 notice of the policy and practice at locations at which
7 the issuer sells gift certificates or gift cards. The
8 written notice shall be an original or a copy of a notice
9 that the State Treasurer shall produce and provide to
10 issuers free of charge.

11 (b-5) Tax-exempt nonprofit organizations, as defined in
12 Section 501(c)(3) of the Internal Revenue Code, are exempt
13 from the requirement to report and remit to the State
14 Treasurer gift certificates and gift cards issued by the
15 nonprofit organization that contain an expiration date or
16 expiration period. Upon the expiration date or end of the
17 expiration period of a gift certificate or gift card issued
18 by the nonprofit organization, any unused portion shall be
19 considered an unrestricted donation from the owner to the
20 nonprofit organization.

21 (c) Nothing in this Section applies to a gift
22 certificate or gift card if the value of the gift certificate
23 or gift card was reported and remitted under this Act before
24 the effective date of this amendatory Act of the 92nd General
25 Assembly.

26 (Source: P.A. 92-487, eff. 8-23-01.)

27 (765 ILCS 1025/11) (from Ch. 141, par. 111)

28 Sec. 11. Report of holder; remittance of property.

29 (a) Except as otherwise provided in subsection (c) of
30 Section 4, every person holding funds or other property,
31 tangible or intangible, presumed abandoned under this Act
32 shall report and remit all abandoned property specified in
33 the report to the State Treasurer with respect to the

1 property as hereinafter provided. The State Treasurer may
2 exempt any businesses from the reporting requirement if he
3 deems such businesses unlikely to be holding unclaimed
4 property.

5 (b) The information shall be obtained in one or more
6 reports as required by the State Treasurer. The information
7 shall be verified and shall include:

8 (1) The name, social security or federal tax
9 identification number, if known, and last known address,
10 including zip code, of each person appearing from the
11 records of the holder to be the owner of any property of
12 the value of \$25 or more presumed abandoned under this
13 Act;

14 (2) In case of unclaimed funds of life insurance
15 corporations the full name of the insured and any
16 beneficiary or annuitant and the last known address
17 according to the life insurance corporation's records;

18 (3) The date when the property became payable,
19 demandable, or returnable, and the date of the last
20 transaction with the owner with respect to the property;
21 and

22 (4) Other information which the State Treasurer
23 prescribes by rule as necessary for the administration of
24 this Act.

25 (c) If the person holding property presumed abandoned is
26 a successor to other persons who previously held the property
27 for the owner, or if the holder has changed his name while
28 holding the property, he shall file with his report all prior
29 known names and addresses of each holder of the property.

30 (d) The report and remittance of the property specified
31 in the report shall be filed by banking organizations,
32 financial organizations, insurance companies other than life
33 insurance corporations, and governmental entities before
34 November 1 of each year as of June 30 next preceding. The

1 report and remittance of the property specified in the report
2 shall be filed by business associations, utilities, and life
3 insurance corporations before May 1 of each year as of
4 December 31 next preceding. The Director may postpone the
5 reporting date upon written request by any person required to
6 file a report.

7 (d-5) Notwithstanding the foregoing, currency exchanges
8 shall be required to report and remit property specified in
9 the report within 30 days after the conclusion of its annual
10 examination by the Department of Financial Institutions. As
11 part of the examination of a currency exchange, the
12 Department of Financial Institutions shall instruct the
13 currency exchange to submit a complete unclaimed property
14 report using the State Treasurer's formatted diskette
15 reporting program or an alternative reporting format approved
16 by the State Treasurer. The Department of Financial
17 Institutions shall provide the State Treasurer with an
18 accounting of the money orders located in the course of the
19 annual examination including, where available, the amount of
20 service fees deducted and the date of the conclusion of the
21 examination.

22 (e) Before filing the annual report, the holder of
23 property presumed abandoned under this Act shall communicate
24 with the owner at his last known address if any address is
25 known to the holder, setting forth the provisions hereof
26 necessary to occur in order to prevent abandonment from being
27 presumed. If the holder has not communicated with the owner
28 at his last known address at least 120 days before the
29 deadline for filing the annual report, the holder shall mail,
30 at least 60 days before that deadline, a letter by first
31 class mail to the owner at his last known address unless any
32 address is shown to be inaccurate, setting forth the
33 provisions hereof necessary to prevent abandonment from being
34 presumed. A holder or any party with owner information is

1 prohibited from charging a fee or service charge to an owner
2 in order to prevent abandonment from being presumed.

3 (f) Verification, if made by a partnership, shall be
4 executed by a partner; if made by an unincorporated
5 association or private corporation, by an officer; and if
6 made by a public corporation, by its chief fiscal officer.

7 (g) Any person who has possession of property which he
8 has reason to believe will be reportable in the future as
9 unclaimed property, may report and deliver it prior to the
10 date required for such reporting in accordance with this
11 Section and is then relieved of responsibility as provided in
12 Section 14.

13 (h) (1) Records pertaining to presumptively abandoned
14 property held by a trust division or trust department or by a
15 trust company, or affiliate of any of the foregoing that
16 provides nondealer corporate custodial services for
17 securities or securities transactions, organized under the
18 laws of this or another state or the United States shall be
19 retained until the property is delivered to the State
20 Treasurer.

21 As of January 1, 1998, this subdivision (h)(1) shall not
22 be applicable unless the Department of Financial Institutions
23 has commenced, but not finalized, an examination of the
24 holder as of that date and the property is included in a
25 final examination report for the period covered by the
26 examination.

27 (2) In the case of all other holders commencing on the
28 effective date of this amendatory Act of 1993, property
29 records for the period required for presumptive abandonment
30 plus the 9 years immediately preceding the beginning of that
31 period shall be retained for 5 years after the property was
32 reportable.

33 (i) The State Treasurer may promulgate rules
34 establishing the format and media to be used by a holder in

1 submitting reports required under this Act.

2 (j) Other than the Notice to Owners required by Section
3 12 and other discretionary means employed by the State
4 Treasurer for notifying owners of the existence of abandoned
5 property, the State Treasurer shall not disclose any
6 information provided in reports filed with the State
7 Treasurer or any information obtained in the course of an
8 examination by the State Treasurer to any person other than
9 governmental agencies for the purposes of returning abandoned
10 property to its owners or to those individuals who appear to
11 be the owner of the property or otherwise have a valid claim
12 to the property, unless written consent from the person
13 entitled to the property is obtained by the State Treasurer.

14 (Source: P.A. 91-16, eff. 7-1-99; 92-271, eff. 8-7-01.)

15 (765 ILCS 1025/12) (from Ch. 141, par. 112)

16 Sec. 12. Notice to owners.

17 (a) For property reportable by May 1, as identified
18 Within-120-days-from-the-filing--of--the--annual--report--and
19 delivery-of-the-abandoned-property-specified-in-the-report-as
20 required by Section 11, the State Treasurer shall cause
21 notice to be published once in an English language newspaper
22 of general circulation in the county in this State in which
23 is located the last known address of any person to be named
24 in the notice on or before November 1 of the same year. For
25 property reportable by November 1, as identified by Section
26 11, the State Treasurer shall cause notice to be published
27 once in an English language newspaper of general circulation
28 in the county in this State in which is located the last
29 known address of any person named in the notice on or before
30 May 1 of the next year. If no address is listed or if the
31 address is outside this State, the notice shall be published
32 in the county in which the holder of the abandoned property
33 has his principal place of business within this State.

1 However, if an out-of-state address is in a state that is not
2 a party to a reciprocal agreement with this State concerning
3 abandoned property, the notice may be published in the
4 Illinois Register.

5 (b) The published notice shall be entitled "Notice of
6 Names of Persons Appearing to be Owners of Abandoned
7 Property", and shall contain:

8 (1) The names in alphabetical order and last known
9 addresses, if any, of persons listed in the report and
10 entitled to notice within the county as hereinbefore
11 specified.

12 (2) A statement that information concerning the
13 amount or description of the property and the name and
14 address of the holder may be obtained by any persons
15 possessing an interest in the property by addressing an
16 inquiry to the State Treasurer.

17 (3) A statement that the abandoned property has
18 been placed in the custody of the State Treasurer to whom
19 all further claims must thereafter be directed.

20 (c) The State Treasurer is not required to publish in
21 such notice any item of less than \$100 or any item for which
22 the address of the last known owner is in a state that has a
23 reciprocal agreement with this State concerning abandoned
24 property unless he deems such publication to be in the public
25 interest.

26 (Source: P.A. 90-167, eff. 7-23-97; 91-16, eff. 7-1-99.)

27 (765 ILCS 1025/18) (from Ch. 141, par. 118)

28 Sec. 18. Deposit of funds received under the Act.

29 (a) The State Treasurer shall retain all funds received
30 under this Act, including the proceeds from the sale of
31 abandoned property under Section 17, in a trust fund and
32 shall, on April 15 and October 15 of each year, deposit any
33 amount in the trust fund exceeding \$2,500,000 into shall

1 ~~forthwith be deposited in the State Pensions Fund, in the~~
2 ~~state treasury, except that the State Treasurer shall retain~~
3 ~~in a separate trust fund an amount not exceeding \$2,500,000~~
4 ~~from which~~ He or she shall make prompt payment of claims he
5 or she duly allows as hereinafter provided for in this Act
6 ~~from the trust fund.~~ However, ~~should any claim be allowed or~~
7 ~~any refund ordered under the provisions of this Act, in~~
8 ~~excess of \$2,500,000, the State Treasurer shall increase the~~
9 ~~amount of such separate trust fund to an amount necessary for~~
10 ~~prompt payment of such claim in excess of \$2,500,000 and make~~
11 ~~prompt payment thereof.~~ Before making the deposit the State
12 Treasurer shall record the name and last known address of
13 each person appearing from the holders' reports to be
14 entitled to the abandoned property. The record shall be
15 available for public inspection during ~~at all~~ reasonable
16 business hours.

17 (b) Before making any deposit to the credit of the State
18 Pensions Fund, the State Treasurer may deduct: (1) any costs
19 in connection with sale of abandoned property, (2) any costs
20 of mailing and publication in connection with any abandoned
21 property, and (3) any costs in connection with the
22 maintenance of records or disposition of claims made pursuant
23 to this Act. The State Treasurer shall semiannually file an
24 itemized report of all such expenses with the Legislative
25 Audit Commission.

26 (Source: P.A. 91-16, eff. 7-1-99.)

27 (765 ILCS 1025/20) (from Ch. 141, par. 120)

28 Sec. 20. Determination of claims.

29 (a) The State Treasurer shall consider any claim filed
30 under this Act and may, in his discretion, hold a hearing and
31 receive evidence concerning it. Such hearing shall be
32 conducted by the State Treasurer or by a hearing officer
33 designated by him. No hearings shall be held if the payment

1 of the claim is ordered by a court, if the claimant is under
2 court jurisdiction, or if the claim is paid under Article XXV
3 of the Probate Act of 1975. The State Treasurer or hearing
4 officer shall prepare a finding and a decision in writing on
5 each hearing, stating the substance of any evidence heard by
6 him, his findings of fact in respect thereto, and the reasons
7 for his decision. The State Treasurer shall review the
8 findings and decision of each hearing conducted by a hearing
9 officer and issue a final written decision. The final
10 decision shall be a public record. Any claim of an interest
11 in property that is filed pursuant to this Act shall be
12 considered and a finding and decision shall be issued by the
13 Office of the State Treasurer in a timely and expeditious
14 manner.

15 (b) If the claim is allowed, and after deducting an
16 amount not to exceed \$20 to cover the cost of notice
17 publication and related clerical expenses, the State
18 Treasurer shall make payment forthwith.

19 (c) In order to carry out the purpose of this Act, no
20 person or company shall be entitled to a fee for discovering
21 presumptively abandoned property until it has been in the
22 custody of the Unclaimed Property Division of the Office of
23 the State Treasurer for at least 24 months. Fees for
24 discovering property that has been in the custody of that
25 division for more than 24 months shall be limited to not more
26 than 10% of the amount collected.

27 This Section shall not apply to the fees of an attorney
28 at law duly appointed to practice in a state of the United
29 States who is employed by a claimant with regard to probate
30 matters on a contractual basis.

31 (d) A person or company attempting to collect a
32 contingent fee for discovering, on behalf of an owner,
33 presumptively abandoned property must be licensed as a
34 private detective pursuant to the Private Detective, Private

1 Alarm, Private Security, and Locksmith Act of 1993.

2 (Source: P.A. 91-16, eff. 7-1-99.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".