



# Senate

General Assembly

**File No. 605**

January Session, 2003

Substitute Senate Bill No. 121

*Senate, May 1, 2003*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT CONCERNING UNCLAIMED PROPERTY.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 3-56a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2003*):

3 As used in this part and sections 6, 7, 8, 17 and 18 of this act, unless  
4 the context otherwise requires:

5 (1) "Apparent owner" means the person whose name appears on the  
6 records of the holder as the person entitled to the property held, issued  
7 or owing by the holder; ["banking organization"]

8 (2) "Banking organization" means any state bank and trust  
9 company, national banking association or savings bank engaged in  
10 business in this state; ["business association" means any private  
11 corporation, limited liability company, joint stock company, business  
12 trust, partnership or any association for business purposes of two or  
13 more individuals; "financial organization"]

14       (3) "Business association" means a corporation, joint stock company,  
15 partnership, unincorporated association, joint venture, limited liability  
16 company, business trust, trust company, safe deposit company,  
17 financial organization, insurance company, mutual fund, utility or  
18 other business entity consisting of one or more persons, whether or not  
19 for profit;

20       (4) "Financial organization" means any savings and loan association,  
21 credit union or investment company; ["holder"]

22       (5) "Gift certificate" means a record evidencing a promise, made for  
23 consideration, by the seller or issuer of the record that goods or  
24 services will be provided to the owner of the record to the value shown  
25 in the record and includes, but is not limited to, a record that contains  
26 a microprocessor chip, magnetic stripe or other means for the storage  
27 of information that is prefunded and for which the value is  
28 decremented upon each use, a gift card, an electronic gift card, stored-  
29 value card or certificate, a store card, a prepaid telephone card, or a  
30 similar record or card;

31       (6) "Holder" means any person in possession of property subject to  
32 this part which belongs to another, or who is trustee in case of a trust,  
33 or who is indebted to another on an obligation subject to this part;  
34 ["last-known address"]

35       (7) "Insurance company" means an association, corporation or  
36 fraternal or mutual benefit organization, whether or not for profit,  
37 engaged in the business of providing life endowments, annuities or  
38 insurance, including accident, burial, casualty, credit life, contract  
39 performance, dental, disability, fidelity, fire, health, hospitalization,  
40 illness, life, malpractice, marine, mortgage, surety, wage protection  
41 and workers' compensation insurance;

42       (8) "Last-known address" means a description of the location of the  
43 apparent owner sufficient for the purpose of delivery of mail; ["life  
44 insurance corporation" means any association or corporation  
45 transacting the business of insurance on the lives of persons or

46 insurance appertaining thereto, including, but not limited to,  
47 endowments and annuities; "owner"]

48 (9) "Mineral" means gas; oil; other gaseous, liquid, and solid  
49 hydrocarbons; oil shale; cement material; sand and gravel; road  
50 material; building stone; chemical raw material; gemstone; fissionable  
51 and nonfissionable ores; colloidal and other clay; steam and other  
52 geothermal resource; or any other substance defined as a mineral by  
53 the law of this state;

54 (10) "Mineral proceeds" means amounts payable for the extraction,  
55 production or sale of minerals, or, upon the abandonment of those  
56 payments, all payments that become payable thereafter, and "mineral  
57 proceeds" includes amounts payable: (A) For the acquisition and  
58 retention of a mineral lease, including bonuses, royalties,  
59 compensatory royalties, shut-in royalties, minimum royalties and  
60 delay rentals; (B) for the extraction, production or sale of minerals,  
61 including net revenue interests, royalties, overriding royalties,  
62 extraction payments and production payments; and (C) under an  
63 agreement or option, including a joint operating agreement, unit  
64 agreement, pooling agreement and farm-out agreement;

65 (11) "Owner" means a depositor in case of a deposit, a beneficiary in  
66 case of a trust, a creditor, claimant or payee in case of other choses in  
67 action, or any person having a legal or equitable interest in property  
68 subject to this part, or [his] such person's legal representative;  
69 ["person"]

70 (12) "Person" means any individual, business association, estate,  
71 trust, government, [or political subdivision, public corporation, limited  
72 liability company, public authority, estate, trust, two or more persons  
73 having a joint or common interest] governmental subdivision, agency  
74 or instrumentality, or any other legal or commercial entity;  
75 ["property"]

76 (13) "Property" means realty or personalty, tangible or intangible;  
77 [and]

78     (14) "Record" means information that is inscribed on a tangible  
79 medium or that is stored in an electronic or other medium and is  
80 retrievable in perceivable form;

81     (15) "Treasurer" means the Treasurer of the state of Connecticut; and

82     (16) "Utility" means a person who owns or operates for public use  
83 any plant, equipment, real property, franchise or license for the  
84 transmission of communications or the production, storage,  
85 transmission, sale, delivery or furnishing of electricity, water, steam or  
86 gas.

87     Sec. 2. Section 3-57a of the general statutes is repealed and the  
88 following is substituted in lieu thereof (*Effective July 1, 2003*):

89     (a) The following property held or owing by a banking or financial  
90 organization is presumed abandoned unless the owner thereof is  
91 known to be living by an officer of such organization:

92     (1) Any demand or savings deposit made in this state with a  
93 banking organization, together with any interest or dividend thereon,  
94 excluding any charges that lawfully may be withheld, unless the  
95 owner has, within [five] three years: (A) Increased or decreased the  
96 amount of the deposit, or presented the passbook or other similar  
97 evidence of the deposit for the crediting of interest; or (B)  
98 corresponded in writing with the banking organization concerning the  
99 deposit; or (C) otherwise indicated an interest in the deposit as  
100 evidenced by (i) a memorandum on file with the banking organization  
101 or (ii) the fact that the Internal Revenue Service Form 1099 sent from  
102 the banking organization to the owner is not returned to the banking  
103 organization by the United States Postal Service.

104     (2) Any matured time deposit made in this state with a banking  
105 organization, together with any interest or dividend thereon,  
106 excluding any charges that lawfully may be withheld, unless, within  
107 [five] three years or, if the terms of the deposit account contract  
108 provide that the time deposit will be renewed unless the banking

109 institution receives instructions to the contrary from the owner, within  
110 [five] three years plus such additional time as is necessary to allow the  
111 renewed time deposit to reach maturity, the owner has: (A) Increased  
112 or decreased the amount of the deposit, or presented the passbook or  
113 other similar evidence of the deposit for the crediting of interest, or (B)  
114 corresponded in writing with the banking organization concerning the  
115 deposit, or (C) otherwise indicated an interest in the deposit as  
116 evidenced by (i) a memorandum on file with the banking organization  
117 or (ii) the fact that the Internal Revenue Service Form 1099 sent from  
118 the banking organization to the owner is not returned to the banking  
119 organization by the United States Postal Service.

120 (3) Any funds paid in this state toward the purchase of shares or  
121 other interest in a financial organization or any deposit made  
122 therewith, and any interest or dividends thereon, excluding any  
123 charges that lawfully may be withheld, unless the owner has within  
124 [five] three years: (A) Increased or decreased the amount of the  
125 investment or deposit, or presented an appropriate record for the  
126 crediting of interest or dividends thereon; or (B) corresponded in  
127 writing with the financial organization concerning the investment or  
128 deposit; or (C) otherwise indicated an interest in the funds as  
129 evidenced by (i) a memorandum on file with the financial organization  
130 or (ii) the fact that the Internal Revenue Service Form 1099 sent from  
131 the financial organization to the owner is not returned to the financial  
132 organization by the United States Postal Service.

133 (4) Any sum payable on checks certified in this state or on written  
134 instruments issued in this state on which a banking or financial  
135 organization is directly liable, including, but not limited to, [certificates  
136 of deposit,] money orders, drafts and traveler's checks, which has been  
137 outstanding for more than [five] three years from the date payable, or  
138 from the date of its issuance if payable on demand, unless the owner  
139 has within such [five] three years corresponded in writing with the  
140 banking or financial organization concerning it, or otherwise indicated  
141 an interest as evidenced by (i) a memorandum on file with the banking  
142 or financial organization or (ii) the fact that the Internal Revenue

143 Service Form 1099 sent from the banking or financial organization to  
144 the owner is not returned to the banking or financial organization by  
145 the United States Postal Service.

146 (5) Any funds or other personal property reposing in or removed  
147 from a safe deposit box or any other safekeeping repository in this  
148 state on which the lease or rental period has expired owing to  
149 nonpayment of rent or other reason, or any surplus amounts arising  
150 from the sale thereof pursuant to law, excluding any charges that  
151 lawfully may be withheld, which have been unclaimed by the owner  
152 for more than [ten] five years from the date on which the lease or  
153 rental period expired.

154 (b) With respect to any funds subject to the provisions of  
155 subdivisions (1), (2) and (3) of subsection (a) of this section which are  
156 held or owing for purposes of a self-employed retirement plan or an  
157 individual retirement account, established in accordance with the  
158 applicable provisions of the Internal Revenue Code and federal  
159 regulations related thereto, such funds shall be presumed abandoned  
160 in accordance with said subdivisions (1), (2) and (3), provided in no  
161 event shall such presumption of abandonment be applicable to such  
162 funds prior to the end of a period of six months immediately following  
163 the date on which distribution of funds under any such plan, to the  
164 person for whose benefit such funds have been contributed, is required  
165 to commence under said provisions of the Internal Revenue Code and  
166 related regulations.

167 Sec. 3. Section 3-58a of the general statutes is repealed and the  
168 following is substituted in lieu thereof (*Effective July 1, 2003*):

169 (a) Unclaimed funds held and owing by [a life insurance  
170 corporation] an insurance company shall be presumed abandoned if a  
171 person other than the insured or annuitant is entitled to the funds and  
172 no address of such person is known to the [corporation] company. If it  
173 is not definite and certain from the records of the [corporation]  
174 company what person is entitled to the funds, it is presumed that the  
175 last-known address of the person entitled to the funds is the same as

176 the last-known address of the insured or annuitant according to the  
177 records of the [corporation] company.

178 (b) As used in this section, "unclaimed funds" means all moneys  
179 held and owing by any [life insurance corporation] insurance company  
180 unclaimed and unpaid for more than [five] three years after the  
181 moneys became due and payable as established from the records of the  
182 [corporation] company under any life or endowment insurance policy  
183 or annuity contract which has matured or terminated. A life insurance  
184 policy not matured by actual proof of the death of the insured is  
185 deemed to be matured and the proceeds thereof are deemed to be due  
186 and payable if such policy was in force when the insured attained the  
187 limiting age under the mortality table on which the reserve is based,  
188 unless the person appearing entitled thereto has within the preceding  
189 [five] three years (1) assigned, readjusted or paid premiums on the  
190 policy, or subjected the policy to loan, or (2) corresponded in writing  
191 with the [life insurance corporation] insurance company concerning  
192 the policy. Moneys otherwise payable according to the records of the  
193 [corporation] company are deemed due and payable although the  
194 policy or contract has not been surrendered as required.

195 Sec. 4. Section 3-59a of the general statutes is repealed and the  
196 following is substituted in lieu thereof (*Effective July 1, 2003*):

197 (a) Any stock or other certificate of ownership, or any dividend,  
198 profit, distribution, interest, payment on principal, mineral proceeds or  
199 other sum held or owing by a business association for or to a  
200 shareholder, certificate holder, member, bondholder or other security  
201 holder, or a participating patron of a cooperative, who has not claimed  
202 it or corresponded in writing with the business association concerning  
203 it within [five] three years after the date prescribed for payment or  
204 delivery, is presumed abandoned.

205 (b) Any sum payable on a traveler's check issued or sold in this state  
206 on which a business association is directly liable, which has been  
207 outstanding for more than [fifteen] ten years from the date of its  
208 issuance is presumed abandoned, unless the owner has within [fifteen]

209 ten years corresponded in writing with the business association  
210 concerning it, or otherwise indicated an interest as evidenced by a  
211 memorandum on file with such business association.

212 (c) Any property payable or distributable in the course of a  
213 demutualization of an insurance company is presumed abandoned if  
214 the property is unclaimed and unpaid one year after the date the  
215 property became payable or distributable.

216 Sec. 5. Section 3-59b of the general statutes is repealed and the  
217 following is substituted in lieu thereof (*Effective July 1, 2003*):

218 Any ownership interest in a business association, as defined in  
219 section 3-56a, as amended by this act, as evidenced by the stock  
220 records or membership records of the business association, owned by a  
221 person who for more than [five] three years has neither claimed a  
222 dividend or other sum referred to in section 3-59a, as amended by this  
223 act, nor corresponded in writing with the association, nor otherwise  
224 indicated an interest in such ownership interest as evidenced by a  
225 memorandum or other record on file with the association, is presumed  
226 abandoned.

227 Sec. 6. (NEW) (*Effective July 1, 2003*) Any sum payable for wages,  
228 salary or other compensation for personal services that has remained  
229 unclaimed by the owner for more than one year after it becomes due,  
230 payable or distributable, is presumed abandoned.

231 Sec. 7. (NEW) (*Effective July 1, 2003*) Any deposit, refund or other  
232 sum owed to a customer or subscriber by a utility that has remained  
233 unclaimed by the customer or subscriber for more than one year after  
234 it becomes due, payable or distributable is presumed abandoned.

235 Sec. 8. (NEW) (*Effective July 1, 2003*) The value of a gift certificate  
236 that is not redeemed three years after the later of (1) the date of  
237 purchase or issuance of the gift certificate, or (2) the date of the last  
238 transaction by the owner that increased or decreased the value of the  
239 gift certificate, is presumed abandoned.

240 Sec. 9. Section 3-62a of the general statutes is repealed and the  
241 following is substituted in lieu thereof (*Effective July 1, 2003*):

242 All property held for the owner by any court, public corporation,  
243 public authority or public officer of this state, or a political subdivision  
244 thereof, which has remained unclaimed by the owner for more than  
245 [five] three years is presumed abandoned, except that any claim  
246 granted pursuant to chapter 53 in an amount less than three thousand  
247 dollars which has remained unclaimed by the owner for more than one  
248 year from the date such claim was granted is presumed abandoned.

249 Sec. 10. Section 3-62c of the general statutes is repealed and the  
250 following is substituted in lieu thereof (*Effective July 1, 2003*):

251 (a) When there exists, or may exist escheated funds or property  
252 under [sections 3-62b to 3-62g, inclusive] this part, the Treasurer shall  
253 make demand therefor or request the Attorney General to institute  
254 proceedings in the name of the state for an adjudication that an escheat  
255 to the state of such funds or property has occurred; and shall take  
256 appropriate action to recover such funds or property.

257 (b) Where there exists, or may exist, escheated funds or property  
258 under [said] sections 3-62b to 3-62g, inclusive, the Treasurer may  
259 request that any officer, department or agency of the United States  
260 voluntarily report such information as may be necessary to claim such  
261 funds or property under said sections. Forms for so reporting may be  
262 prescribed by the Treasurer. If any officer, department or agency of the  
263 United States fails or refuses to provide the voluntary report so  
264 requested, the Treasurer shall request that the Attorney General  
265 institute proceedings in the name of the state to obtain the required  
266 information.

267 Sec. 11. Section 3-65a of the general statutes is repealed and the  
268 following is substituted in lieu thereof (*Effective July 1, 2003*):

269 (a) Within [one year] one hundred eighty days before a  
270 presumption of abandonment is to take effect in respect to [any]

271 property subject to section 6 or 7 of this act and within one year before  
272 a presumption of abandonment is to take effect in respect to all other  
273 property subject to this part, and if the owner's claim is not barred by  
274 law, the holder shall notify the owner thereof, by first class mail  
275 directed to the owner's last-known address, that evidence of interest  
276 must be indicated as required by this part or such property will be  
277 transferred to the Treasurer and will be subject to escheat to the state.

278 (b) Within ninety days after the close of the calendar year in which  
279 property is presumed abandoned, the holder shall pay or deliver such  
280 property to the Treasurer and file, on forms which the Treasurer shall  
281 provide, a report of unclaimed property. Each report shall be verified  
282 and shall include: (1) The name, if known, and last-known address, if  
283 any, of each person appearing to be the owner of such property; (2) in  
284 case of unclaimed funds of [life insurance corporations] an insurance  
285 company, the full name of the insured or annuitant and beneficiary  
286 and his or her last-known address appearing on the [life insurance  
287 corporation's] insurance company's records; (3) the nature and  
288 identifying number, if any, or description of the property and the  
289 amount appearing from the records to be due except that the holder  
290 shall report in the aggregate items having a value of less than fifty  
291 dollars; [or less;] (4) the date when the property became payable,  
292 demandable or returnable and the date of the last transaction with the  
293 owner with respect to the property; (5) if the holder is a successor to  
294 other holders, or if [he] the holder has changed [his] the holder's name,  
295 all prior known names and addresses of each holder of the property;  
296 and (6) such other information as the Treasurer may require.

297 (c) Verification, if made by a partnership, shall be executed by a  
298 partner; if made by an unincorporated association or private  
299 corporation, by an officer; and if made by a public corporation, by its  
300 chief fiscal officer.

301 (d) The Treasurer shall keep a permanent record of all reports  
302 submitted to [him] the Treasurer.

303 (e) Except for claims paid under section 3-67a and except as

304 provided in subsection [(d)] (e) of section 3-70a, as amended by this  
305 act, no owner shall be entitled to any interest, income or other  
306 increment which may accrue to property presumed abandoned from  
307 and after the date of payment or delivery to the Treasurer.

308 (f) The Treasurer may decline to receive any property the value of  
309 which is less than the cost of giving notice or holding sale, or [he] may  
310 postpone taking possession until a sufficient sum accumulates.

311 (g) The Treasurer, or any officer or agency designated by [him] the  
312 Treasurer, may examine any person on oath or affirmation, or the  
313 records of any person [, who he has reason to believe has knowledge of  
314 or has failed to report or transmit property presumed abandoned] or  
315 any agent of the person including, but not limited to, a dividend  
316 disbursement agent or transfer agent of a business association, banking  
317 organization or insurance company that is the holder of property  
318 presumed abandoned to determine whether the person or agent has  
319 complied with this part. The Treasurer may conduct the examination  
320 even if the person or agent believes the person or agent is not in  
321 possession of any property that must be paid, delivered or reported  
322 under this part. The Treasurer may bring an action in a court of  
323 appropriate jurisdiction to enforce the provisions of this part.

324 (h) Upon request of the holder, the Treasurer may approve the  
325 aggregate reporting on an estimated basis of two hundred or more  
326 items in each of one or more categories of unclaimed funds whenever  
327 it appears to [him] the Treasurer that each of the items in any such  
328 category has a value of more than ten dollars but less than fifty dollars  
329 and the cost of reporting such items would be disproportionate to the  
330 amounts involved. Any holder electing to so report any such category  
331 in the aggregate shall assume responsibility for any valid claim  
332 presented within twenty years after the year in which the items in such  
333 category are presumed abandoned.

334 (i) A record of the issuance of a check, draft or similar instrument is  
335 prima facie evidence of the obligation represented by the check, draft  
336 or similar instrument. In claiming property from a holder who is also

337 the issuer, the Treasurer's burden of proof as to the existence and  
338 amount of the property and its abandonment is satisfied by showing  
339 issuance of the instrument and passage of the requisite period of  
340 abandonment. Defenses of payment, satisfaction, discharge and want  
341 of consideration are affirmative defenses that shall be established by  
342 the holder.

343 (j) Notwithstanding the provisions of subsection (b) of this section,  
344 the holder of personal property presumed abandoned pursuant to  
345 subdivision (5) of subsection (a) of section 3-57a, as amended by this  
346 act, shall sell such property and pay the proceeds arising from such  
347 sale, excluding any charges that may lawfully be withheld, to the  
348 Treasurer.

349 Sec. 12. Section 3-66a of the general statutes is repealed and the  
350 following is substituted in lieu thereof (*Effective July 1, 2003*):

351 (a) During the 1998 calendar year and every second year thereafter,  
352 the [State] Treasurer shall cause notice to be published of all property  
353 having a value of fifty dollars or more reported and transferred to  
354 [him] the Treasurer which was presumed abandoned during [the]  
355 preceding [two] calendar years and notice of which was not previously  
356 published. Such notice shall be published at least once in a newspaper  
357 having general circulation in each county in which is located the last-  
358 known address of each person appearing to be the owner of such  
359 property. In addition to such published notice, the [State] Treasurer  
360 may make such notice accessible to the public electronically by means  
361 of the [internet's] Internet's world wide web or through additional  
362 telecommunications methods as the [State] Treasurer deems cost  
363 effective and appropriate.

364 (b) Such published notice shall contain: (1) The names, in  
365 alphabetical order, and the last-known addresses, if any, of all persons  
366 reported as the apparent owners of unclaimed property, and (2) a  
367 statement that any person possessing an interest in such property may  
368 obtain from the Treasurer information concerning the amount and  
369 description of such property and the name and address of the holder

370 thereof free of charge. The [State] Treasurer may cause to be published  
371 at any time, in the manner prescribed in subsection (a) of this section,  
372 an additional notice stating that such list may be obtained from other  
373 specified sources.

374 (c) The [State] Treasurer may insert in any such notice such  
375 additional information as [he] the Treasurer deems necessary for the  
376 proper administration of this part.

377 (d) The provisions of this section shall not apply to items reported in  
378 the aggregate pursuant to subsection (h) of section 3-65a, as amended  
379 by this act.

380 Sec. 13. Section 3-66b of the general statutes is repealed and the  
381 following is substituted in lieu thereof (*Effective July 1, 2003*):

382 Intangible property is subject to the custody of the state as  
383 unclaimed property if the conditions raising a presumption of  
384 abandonment under [section 3-57a, 3-58a, 3-59a, 3-59b, 3-61a or 3-64a]  
385 this part and sections 6 to 8, inclusive, of this act are satisfied and:

386 (1) The last-known address of the apparent owner, as shown on the  
387 records of the holder, is in this state;

388 (2) The records of the holder do not include the name of the person  
389 entitled to the property and it is established that the last-known  
390 address of such person is in this state;

391 (3) The records of the holder do not reflect the last-known address  
392 of the apparent owner, and it is established that (A) the last-known  
393 address of the person entitled to the property is in this state, or (B) the  
394 holder is a domiciliary or a governmental subdivision or agency of this  
395 state and has not previously paid or delivered the property to the state  
396 of the last-known address of the apparent owner or other person  
397 entitled to the property;

398 (4) The last-known address of the apparent owner, as shown on the  
399 records of the holder, is in a state that does not provide by law for the

400 escheat or custodial taking of the property or the escheat or unclaimed  
401 property law of which is not applicable to the property and the holder  
402 is a domiciliary or a governmental subdivision or agency of this state;

403 (5) The last-known address of the apparent owner, as shown on the  
404 records of the holder, is in a foreign nation and the holder is a  
405 domiciliary or a governmental subdivision or agency of this state; or

406 (6) The transaction out of which the property arose occurred in this  
407 state and (A) (i) the last-known address of the apparent owner or other  
408 person entitled to the property is unknown, or (ii) the last-known  
409 address of the apparent owner or other person entitled to the property  
410 is in a state that does not provide by law for the escheat or custodial  
411 taking of the property or the escheat or unclaimed property law of  
412 which is not applicable to the property, and (B) the holder is a  
413 domiciliary of a state that does not provide by law for the escheat or  
414 custodial taking of the property or the escheat or unclaimed property  
415 law of which is not applicable to the property.

416 Sec. 14. Section 3-70a of the general statutes is repealed and the  
417 following is substituted in lieu thereof (*Effective July 1, 2003*):

418 (a) Any person claiming an interest in property surrendered to the  
419 Treasurer under the provisions of this part may claim such property,  
420 or the proceeds from the sale thereof, at any time thereafter. Any  
421 person claiming an interest in such property shall file a certified claim  
422 with the Treasurer, setting forth the facts upon which such party  
423 claims to be entitled to recover such money or property. The Treasurer  
424 shall prescribe the form that such a verified claim shall take.

425 (b) The Treasurer shall consider each claim [within] not later than  
426 ninety days after it is filed. [He] The Treasurer may hold hearings on  
427 any claim and [he] may refer any claim to the Claims Commissioner,  
428 who shall hold hearings thereon and promptly return [his] the Claims  
429 Commissioner's recommendations for the payment or rejection thereof.  
430 The Treasurer shall deliver [his] the Treasurer's decision in writing on  
431 each claim heard, with a finding of fact and a statement of the reasons

432 for [his] the Treasurer's decision. Any person aggrieved by a decision  
433 of the Treasurer may appeal therefrom in accordance with the  
434 provisions of section 4-183, except venue for such appeal shall be in the  
435 judicial district of New Britain.

436 (c) No agreement to locate property shall be valid if: (1) Such  
437 agreement is entered into [(1) (A) within two years after the date a  
438 report of unclaimed property is required to be filed under section 3-  
439 65a, as amended by this act, or [(2) (B) between the date such a report  
440 is required to be filed under said section and the date it is filed under  
441 said section, whichever period is longer, [shall be valid. No agreement  
442 to locate property entered into after the end of such longer period shall  
443 be valid if,] (2) such agreement is entered into within two years after  
444 the date of publication of the notice required by section 3-66a, as  
445 amended by this act, or (3) pursuant to such agreement, any person  
446 undertakes to locate property included in [that report] a report of  
447 unclaimed property that is required to be filed under section 3-65a, as  
448 amended by this act, for a fee or other compensation exceeding ten per  
449 cent of the value of the recoverable property. [Such an] An agreement  
450 to locate property shall be valid only if it is in writing, signed by the  
451 owner, and discloses the nature and value of the property, and the  
452 owner's share after the fee or compensation has been subtracted is  
453 clearly stipulated. Nothing in this section shall be construed to prevent  
454 an owner from asserting, at any time, that any agreement to locate  
455 property is based upon excessive or unjust consideration.

456 [(c)] (d) The Treasurer shall pay each claim allowed without  
457 deduction for costs of notices or sale or for service charges. [He] The  
458 Treasurer shall notify the Commissioner of Revenue Services of the  
459 payment of claims of five hundred dollars or more to the domiciliary  
460 administrator or executor of a deceased owner.

461 [(d)] (e) In the case of any claim allowed under this section for  
462 property, funds or money delivered to the Treasurer pursuant to  
463 [subdivisions (1) to (4), inclusive,] subdivision (1) or (2) of subsection  
464 (a) of section 3-57a, as amended by this act, the Treasurer shall pay

465 such claim with interest [at the rate of four per cent accruing from the  
466 date of payment or delivery to the Treasurer] as follows: For each  
467 calendar year or portion thereof that the property, funds or money has  
468 been paid or delivered to the Treasurer, the Treasurer shall pay interest  
469 at the deposit index rate determined and published by the  
470 Commissioner of Banking not later than December fifteenth of the  
471 preceding calendar year pursuant to subdivision (2) of subsection (i) of  
472 section 47a-21. Such interest shall accrue from the date of payment or  
473 delivery of the property, funds or money to the Treasurer until the  
474 date of payment or delivery of the property, funds or money to the  
475 claimant.

476 Sec. 15. Section 3-73b of the general statutes is repealed and the  
477 following is substituted in lieu thereof (*Effective July 1, 2003*):

478 The expiration of any period of time specified by the general  
479 statutes or any court order, during which an action or proceeding may  
480 be commenced or enforced to obtain payment of a claim for money or  
481 recovery of property, or the expiration of any period of time specified  
482 in a contract during which an owner has the right to receive or recover  
483 money or property, shall not prevent the money or property from  
484 being presumed abandoned property or affect any duty to file a report  
485 required by subsection (b) of section 3-65a, as amended by this act, or  
486 to pay or deliver abandoned property to the [State] Treasurer.

487 Sec. 16. Subsection (a) of section 3-74a of the general statutes is  
488 repealed and the following is substituted in lieu thereof (*Effective July*  
489 *1, 2003*):

490 (a) The Treasurer may, [make such rules and regulations as he  
491 finds] in accordance with chapter 54, adopt such regulations as are  
492 necessary to administer and enforce the provisions of this part.

493 Sec. 17. (NEW) (*Effective July 1, 2003*) (a) A holder of property subject  
494 to part III of chapter 32 of the general statutes and sections 6 to 8,  
495 inclusive, of this act may not impose on the property a dormancy  
496 charge or fee, abandoned property charge or fee, unclaimed property

497 charge or fee, escheat charge or fee, inactivity charge or fee, or any  
 498 similar charge, fee or penalty for inactivity with respect to the  
 499 property. Neither the property nor an agreement with respect to the  
 500 property may contain language suggesting that the property may be  
 501 subject to such a charge, fee or penalty for inactivity.

502 (b) Any violation of any provision of this section shall be an unfair  
 503 or deceptive trade practice under subsection (a) of section 42-110b of  
 504 the general statutes.

505 Sec. 18. (NEW) (*Effective July 1, 2003*) (a) No person may sell or issue  
 506 a gift certificate that is subject to an expiration date. No gift certificate  
 507 or any agreement with respect to such gift certificate may contain  
 508 language suggesting that an expiration date may apply to the gift  
 509 certificate. Any violation of any provision of this subsection shall be an  
 510 unfair or deceptive trade practice under subsection (a) of section 42-  
 511 110b of the general statutes.

512 (b) Any person who sells or issues a gift certificate shall obtain the  
 513 address of the owner of such gift certificate and maintain a record of  
 514 such address. In the absence of a record of the address of the owner of  
 515 the gift certificate, the address of the owner shall, for purposes of part  
 516 III of chapter 32 of the general statutes, be presumed to be the address  
 517 of the Treasurer.

This act shall take effect as follows:	
Section 1	<i>July 1, 2003</i>
Sec. 2	<i>July 1, 2003</i>
Sec. 3	<i>July 1, 2003</i>
Sec. 4	<i>July 1, 2003</i>
Sec. 5	<i>July 1, 2003</i>
Sec. 6	<i>July 1, 2003</i>
Sec. 7	<i>July 1, 2003</i>
Sec. 8	<i>July 1, 2003</i>
Sec. 9	<i>July 1, 2003</i>
Sec. 10	<i>July 1, 2003</i>
Sec. 11	<i>July 1, 2003</i>

Sec. 12	<i>July 1, 2003</i>
Sec. 13	<i>July 1, 2003</i>
Sec. 14	<i>July 1, 2003</i>
Sec. 15	<i>July 1, 2003</i>
Sec. 16	<i>July 1, 2003</i>
Sec. 17	<i>July 1, 2003</i>
Sec. 18	<i>July 1, 2003</i>

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Treasurer	GF - Revenue Gain	21.3 million	17.3 million
Treasurer	Unclaimed Property Fund - Revenue Gain	1.4 million	1.3 million
Consumer Protection, Dept.; Attorney General	GF - None	None	None

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill reduces the dormancy period for certain classes of unclaimed property before it is escheated to the state. This will result in estimated General Fund revenue gains of \$21.3 million in FY 04 and \$17.3 million in FY 05 and Unclaimed Property Fund revenue gains of approximately \$1.4 million in FY 04 and \$1.3 million in FY 05.

Under current law, most property held or owned in this state and remaining unclaimed by the owner is presumed abandoned after a specified amount of time passes. In March of each year, the state treasurer assumes custody of abandoned property from the previous calendar year and the monetary assets are transferred to the General Fund as revenue. The treasurer is also responsible for administering a program to find the property’s owners through the Unclaimed Property Division.

The bill reduces the period of time that must pass without an ownership claim on certain types of property, before it is presumed abandoned. This will accelerate the transfer of abandoned property

that the state would have received in future years and result in revenue gains of \$21.3 million in FY 04 and \$17.3 million in FY 05. The table below shows the types of property affected by the bill, the change in holding period and the estimated revenue gain for each type.

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**SSB 121: Estimated One-Time Revenue Gain for Different Property Types**

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Bill Section	Property Type	Change in holding period (years)	FY 04 (\$ millions)	FY 05 (\$ millions)
2	Official Checks	5 to 3	7.8	6.5
2	Financial Institutions	5 to 3	6.6	5.5
9	Court Funds	5 to 3	0.2	0.2
3	Life Insurance Companies	5 to 3	1.5	1.3
4(b)	Travelers Checks	15 to 10	1.5	1.0
9	Trust Property (Banks)	5 to 3	0.2	0.2
2(a)(3)	Securities	5 to 3	3.2	2.7
6	Payroll	3 to 1	1.5	1.3
7	Utility Deposits	3 to 1	<u>0.1</u>	<u>0.1</u>
	Subtotal		<b>22.7</b>	<b>18.6</b>
	Transfer to Unclaimed Property Fund for the cost of the Program		<b><u>1.4</u></b>	<b><u>1.3</u></b>
	<b>Total General Fund Revenue</b>		<b>21.3</b>	<b>17.3</b>

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It should be noted that, based on data from prior years, an estimated 25% of escheated property will eventually be returned to its owners through the Unclaimed Property Program (between \$5.7 million and \$6.8 million of the \$22.7 million in FY 04 and between \$4.6 million and \$5.6 million of the \$18.6 million in FY 05.) The bulk of ownership claims are made shortly after the Treasurer's Office publishes the unclaimed property list, which occurs every 2 years. The funds escheated in FY 04 will appear on the unclaimed property list published in February 2006, so the bulk of the ownership claim will probably be paid out in FY 06. The funds escheated in FY 05 will appear on the list published in February 2008 so the bulk of the ownership claims will be paid out in FY 08.

There will also be revenue gains to the Unclaimed Property Fund of \$1.4 million in FY 04 and \$1.3 million in FY 05. The Fund receives a

percentage of the value of the property escheated to the state. The percentage is based on the cost of running the Unclaimed Property Program, which include in-state compliance exam activities, contracts with out-of-state audit vendors, outreach program expenses to inform and educate holders of unclaimed property, a contract with an outside vendor to process ownership claims and expenses associated with locating unclaimed property owners. The percentage of escheated property transferred to the Unclaimed Property Fund in the past has varied between 5% and 9%. The FY 04 estimate is based on the assumption that 6% of escheated property will be transferred to the Fund and 7% will be transferred in FY 05.

The other provisions of the bill that clarify statutory language regarding unclaimed wages, utility payments, gift certificates, mineral rights and insurance companies have no fiscal impact. These types of unclaimed property were previously reported and escheated under different categories and thus do not represent an expansion of what is classified as unclaimed property.

Any increase in workload for the Office of the Attorney General and the Department of Consumer Protection as a result of this bill will be handled within existing staff and resources.

**OLR Bill Analysis**

sSB 121

***AN ACT CONCERNING UNCLAIMED PROPERTY*****SUMMARY:**

Most property held or owed in this state and remaining unclaimed by the owner is presumed abandoned after a specified amount of time passes. The state treasurer assumes custody and is responsible for any ownership or other types of claims in the property. This bill:

1. reduces the amount of time that must pass without a claim on property before it is presumed abandoned;
2. alters some of the requirements for the presumption of abandonment, provides specific rules for more types of property (such as gift certificates and mineral proceeds), and alters some definitions and provides some new ones;
3. changes the treasurer's powers to examine people about unclaimed property, to demand unclaimed property, and to ask the attorney general to bring suit;
4. prohibits holders from imposing abandonment fees;
5. prohibits selling or issuing gift certificates with expiration dates;
6. changes when the treasurer must pay interest on abandoned property and determines the interest rate based on a rate set by the banking commissioner;
7. specifies that the treasurer must follow the Uniform Administrative Procedures Act in adopting regulations to enforce the abandoned property laws; and
8. makes other changes related to the duties of a holder of abandoned property, agreements to locate property, and records of issuing a check, draft, or instrument as prima facie evidence.

EFFECTIVE DATE: July 1, 2003

### **FUNDS HELD BY BANKING OR FINANCIAL ORGANIZATIONS**

The bill reduces, from five to three years, the period of time that must pass without any activity before the following property is presumed abandoned:

1. a demand or savings deposit in this state;
2. funds paid in the state to purchase shares or interests in a financial organization or a deposit made with them;
3. sums payable on checks certified in this state or written instruments issued in the state when a bank or financial institution is directly liable, such as money orders, drafts, and traveler's checks (the bill deletes specific reference to certificates of deposit); and
4. a matured time deposit made in this state (by law an additional period applies if there is automatic renewal).

The bill also reduces the dormancy period, from 10 to five years, for funds or personal property (or any surplus amounts from their lawful sale) in a safe deposit box or other safe depository in this state where the lease or rental period expired because of nonpayment of rent or other reason. The bill requires whoever has this property to sell it and pay the proceeds, minus any lawful charges, to the treasurer.

As under current law, these rules do not apply if an officer of the organization knows the owner is living and certain other actions prevent the dormancy period from applying.

### **FUNDS HELD BY INSURANCE COMPANIES**

The bill applies the unclaimed property provisions to insurance companies, and not just life insurance corporations, and reduces the dormancy period from five to three years. It defines an "insurance company" as an association, corporation, or fraternal or mutual benefit organization, whether for profit or not, engaged in the business of providing life endowments, annuities, or insurance, including accident, burial, casualty, credit life, contract performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice,

marine, mortgage, surety, wage protection, and workers' compensation.

As under current law, unclaimed funds that are held and owing are presumed abandoned if a person other than the insured or annuitant is entitled to the funds and the company does not know his address. Unclaimed funds are all money held and owing that are unclaimed and unpaid after becoming due and payable as established by company records under a life or endowment insurance policy or annuity contract that has matured or terminated.

Under current law, a life insurance policy not matured by actual proof of death is deemed mature and the proceeds due and payable if the policy was in force when the insured reached the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled has (1) assigned, readjusted, or paid premiums on the policy or subjected it to loan or (2) written the company about the policy. The bill reduces this dormancy period from five to three years.

### **PROPERTY HELD BY BUSINESS ASSOCIATIONS**

The bill reduces, from five to three years, the period of time that must pass without any activity before property is presumed abandoned for stocks, certificates of ownership, dividends, profits, distributions, interest, payments on principal, or other sums held or owing by a business association for or to a shareholder, certificate holder, member, bondholder or other security holder, or participating patron of a cooperative. The person must not have claimed it or written the association about it for three, instead of five, years after the date for payment or delivery.

The bill reduces from 15 to 10 years the amount of time that a sum payable on a traveler's check issued or sold in the state for which a business association is directly liable must be outstanding before it is presumed abandoned, unless the owner has written the business about it or otherwise indicated an interest by a memo on file with the business.

### ***Definition of Business Association***

The bill adds more examples of a business association and broadens the definition. It expands the definition to apply to business entities

with one or more people instead of associations for business purposes of two or more people under current law. As under current law, a business association is a corporation, limited liability company, joint stock company, business trust, or partnership. The bill also specifies that the definition includes an unincorporated association, joint venture, trust company, safe deposit company, financial organization, insurance company, mutual fund, and utility.

### **OWNERSHIP INTERESTS**

The bill reduces, from five to three years, the period of time that must pass before an ownership interest in a business association shown on stock or membership records is presumed abandoned. As under current law, the owner must not claim a dividend or other sum, write to the association, or otherwise indicate an interest by a memo on file with the association during that period.

### **PROPERTY HELD BY GOVERNMENT**

The bill reduces, from five to three years, the period of time that must pass before property held for its owner by a court, public corporation, public authority, state officer, or political subdivision is presumed abandoned. (This does not change the rule that a claim against the state granted for less than \$3,000 is presumed abandoned after one year.)

### **INTANGIBLE PROPERTY**

The bill subjects intangible property to state custody as unclaimed property if it raises a presumption of abandonment under any of the provisions in the bill or current law, not just under the provisions on property held by banking organizations, funds held by life insurance corporations, property held by a business association, ownership interests in business associations, property held by a fiduciary, or the general provision for property not otherwise covered by law.

As under current law, in addition to meeting the presumptions of abandonment, certain other conditions must be met.

### **NEW CATEGORIES OF ABANDONED PROPERTY**

Under current law, all property not otherwise provided for or excluded from other categories that is held or owing in this state and is

unclaimed for more than three years after it becomes due, payable, or distributable, is presumed abandoned. The bill provides specific rules for property that would have otherwise been covered by this provision.

### ***Gift Certificates***

Under the bill, the value of a gift certificate is presumed abandoned if it is not redeemed within three years of (1) its purchase or issuance date or (2) the last date of a transaction that increased or decreased its value, whichever is later.

The bill defines a gift certificate as a record showing a promise by the seller or issuer, made for consideration, that goods or services will be provided to the owner to the value shown in the record. This includes, but is not limited to, a (1) record that contains a microprocessor chip, magnetic stripe, or other means to store information that is prefunded and for which value is decreased with use; (2) gift card; (3) electronic gift card; (4) stored value card or certificate; (5) store card; (6) prepaid telephone card; or (7) similar record or card.

The bill defines a “record” as information inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form.

### ***Mineral Proceeds***

The bill provides a specific rule for mineral proceeds. Under the bill, any mineral proceeds held or owing by a business association for someone who has not claimed it or written the association about it within three years after the date for payment or delivery is presumed abandoned.

It defines a “mineral” as gas; oil; other gaseous, liquid, and solid hydrocarbons; oil shale; cement material; sand and gravel; road material; building stone; chemical raw material; gemstone; fissionable and nonfissionable ores; colloidal and other clay; steam and other geothermal resource; or any other substance defined as a mineral by Connecticut law.

“Mineral proceeds” are amounts payable for extraction, production, or sale of minerals or all payments that become payable after on

abandonment of those payments. It includes amounts payable (1) for acquiring and retaining a mineral lease, including bonuses, royalties, and delay rentals; (2) for extracting, producing, or selling minerals, including net revenue interests, royalties, and extraction and production payments; and (3) under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement, and farm-out agreement.

### ***Demutualization Payments***

Under the bill, any property payable or distributable in the course of the demutualization of an insurance company is presumed abandoned if it is unclaimed and unpaid one year after it became payable or distributable.

### ***Wages***

Under the bill, any wages, salary, or compensation for personal services unclaimed for more than one year after becoming due, payable, or distributable is presumed abandoned.

### ***Utility Deposits, Refunds, or Other Sums***

Under the bill, a deposit, refund, or sum a utility owes a customer or subscriber that is unclaimed for more than a year after becoming due, payable, or distributable is presumed abandoned.

The bill defines a utility as a person who owns or operates for public use a plant, equipment, real property, franchise, or license for transmitting communications or producing, storing, transmitting, selling, delivering, or furnishing electricity, water, steam, or gas.

## **TREASURER'S POWERS**

The bill allows the treasurer, when any escheated funds or property exists or may exist to demand them or ask the attorney general to bring a law suit and take appropriate action to recover them. Under current law, the treasurer only has these powers over property held by a federal court of agency.

Under current law, the treasurer can examine any person under oath, or examine records, when she believes the person has knowledge of or has failed to report or transmit property presumed abandoned. The

bill instead allows the examination to determine whether the person has complied with the law on abandoned property and allows the treasurer to conduct the examination even if the person believes he does not possess the property. The bill also allows her to examine a person's agent, including, but not limited to, a dividend disbursement agent or transfer agent of a business association, banking organization, or insurance company that holds property presumed abandoned.

### **PROHIBITION OF ABANDONMENT FEES**

The bill prohibits the holder of property subject to the abandonment provisions from imposing a charge or fee for dormancy, abandonment, escheat, inactivity, or any similar charge. The bill prohibits the property or an agreement concerning it from containing language suggesting that the property may be subject to such a charge, fee, or penalty. Violations are an unfair or deceptive trade practice.

### **GIFT CERTIFICATES**

The bill prohibits anyone from selling or issuing a gift certificate with an expiration date and prohibits the gift certificate or an agreement from having language suggesting that an expiration date may apply. Violations are unfair or deceptive trade practice.

The bill requires anyone who sells or issues a gift certificate to get and maintain the owner's address. If there is no record of the owner's address, the treasurer's address is used.

### **INTEREST**

The bill eliminates the requirement for the treasurer to pay interest on claims for (1) funds paid in the state to purchase shares or interests in a financial organization or a deposit made with them and (2) sums payable on checks certified in this state or written instruments issued here when a bank or financial institution is directly liable.

As under current law, the treasurer must pay interest on claims for (1) demand or savings deposits in this state and (2) matured time deposits made in this state. But the bill changes the rate of interest from 4% to the deposit index rate the banking commissioner sets annually by December 15 (currently 1.5%).

### **DUTIES OF HOLDER OF ABANDONED PROPERTY**

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Under current law, the holder of property must notify an owner by first class mail at the last-known address one year before a presumption of abandonment takes effect that the owner must indicate his interest in the property or it will be transferred to the treasurer and subject to escheat to the state. The bill requires this notice 180 days before the presumption of abandonment takes effect for the bill's new provisions on (1) wages, salary, or compensation and (2) utility deposits, refunds, or other sums.

Under the bill, the expiration of any deadline in a contract during which an owner has the right to receive or recover money or property does not prevent it from being presumed abandoned or affect the duty of the holder to file a report or pay or deliver the property to the treasurer.

### **AGREEMENTS TO LOCATE PROPERTY**

Under current law, an agreement to locate property is not valid if it is made (1) within two years of the date a holder of abandoned property must report it to the treasurer or (2) between the time the report is required and actually filed, whichever is later. The bill also makes an agreement invalid if it is made within two years of the date the treasurer publishes notice of abandoned property in a newspaper. (She must publish notice of all property with a value of at least \$50 every two years for property presumed abandoned during those two years.)

### **CHECKS, DRAFTS, SIMILAR INSTRUMENTS**

The bill makes the record of issuing a check, draft, or a similar instrument prima facie evidence (evidence that on its face and absent contradictory evidence is sufficient to establish a fact) of the obligation. The treasurer satisfies her burden of proof about the item, its amount, and the passage of time by showing the issuance when claiming property from a holder who is the issuer. The holder may establish affirmative defenses of payment, satisfaction, discharge, and lack of consideration.

### **BACKGROUND**

#### ***Unfair and Deceptive Trade Practices***

Under the unfair or deceptive trade practices law, the consumer

protection commissioner may investigate unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce. He may issue subpoenas on matters under investigation, administer oaths, and conduct hearings to aid in any investigation or examination. He may also issue cease and desist orders, order restitution, or apply to the Superior Court for a consent decree, temporary or permanent restraining order, or injunction to enforce the law.

**Related Bill**

sHB 5328 (File 177), prohibits a person from (1) issuing gift certificates with expiration dates or (2) imposing dormancy, abandoned or unclaimed property, escheat, inactivity, or similar charges, fees, or penalties for not using the certificates. It also specifies that an unredeemed gift certificate is not presumed abandoned as it would normally be under Connecticut's escheats law. Violations are subject to a \$500 fine and are unfair and deceptive trade practices.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute  
Yea 26    Nay 15