
OLR Bill Analysis

sSB 393 (File 431, as amended by Senate "A" and "B")*

AN ACT IMPLEMENTING THE TREASURER'S RECOMMENDATIONS CONCERNING UNCLAIMED PROPERTY.

SUMMARY

By law, most property held or owed in this state that remains unclaimed by the owner is presumed abandoned after a specified amount of time passes and escheats to the state as abandoned (or unclaimed) property. This bill makes various changes to these laws. Principally, the bill:

1. establishes circumstances under which virtual currency is presumed abandoned and explicitly subjects it to the state's unclaimed property law (§§ 1 & 2),
2. requires business associations and banking or financial organizations holding abandoned virtual currency to liquidate it before delivering its net proceeds to the treasurer as escheated property (§ 3),
3. expands the notice requirements for holders of unclaimed property (§ 3),
4. gives the treasurer discretion to contact apparent property owners in the way he deems most appropriate (§ 4),
5. establishes conditions under which the treasurer may distribute certain unclaimed property for deceased owners (§ 5), and
6. requires the treasurer and the Department of Revenue Services (DRS) to enter into an agreement establishing a procedure for data sharing to identify property owners and facilitate the electronic return of unclaimed property (§§ 7 & 8).

*Senate Amendment “A” principally (1) eliminates the requirement that property holders notify owners by telephone before property is presumed abandoned, and limits the requirement to notify owners by email to only those who have consented for the electronic delivery of legally required notices; (2) modifies the required disclosure and notice requirements for agreements or solicitations to locate property entered into on or after January 1, 2025; (3) eliminates provisions requiring estate executors and administrators to search the unclaimed property list before giving the probate court a final account; and (4) adds provisions allowing the treasurer to distribute certain unclaimed property of deceased owners to claimants.

*Senate Amendment “B” eliminates the underlying bill’s provisions on agreements and solicitations to locate unclaimed property.

EFFECTIVE DATE: July 1, 2024, except the provisions on tax data sharing and payments for deceased property owners’ property are effective upon passage.

§§ 1-3 — REQUIREMENTS FOR SPECIFIED TYPES OF ABANDONED PROPERTY

Abandoned Virtual Currency Held by Banks and Financial Institutions

The bill explicitly adds virtual currency as a type of property subject to the state’s unclaimed property law. By law, and under the bill, virtual currency is any type of digital unit that is used as a medium of exchange or a form of digitally stored value or that is incorporated into payment system technology. It generally does not include digital units used for an online game or customer rewards programs (CGS § 36a-596(21)).

Under the bill, virtual currency held by a business association or banking or financial organization that facilitates the purchase, storage, or transfer of virtual currency through a secure system is presumed abandoned (1) if the owner has not accessed the secure system within three years or (2) on the date the association or organization is dissolved (voluntarily or involuntarily) or liquidated.

Sales of Virtual Currency and Property From a Safe Deposit Box

The bill extends certain requirements to holders of abandoned virtual currency that apply under existing law to holders of abandoned personal property from a safe deposit box. Specifically, it:

1. requires holders (i.e., business associations and banking or financial organizations) to sell the abandoned virtual currency and transfer the sale proceeds (minus any charges that may be lawfully withheld), along with any relevant records the treasurer deems appropriate, to the treasurer;
2. exempts the holders from responsibility for claims related to virtual currency sales or transfers to the treasurer;
3. allows the holder to dispose of the virtual currency in any way it considers appropriate and exempts the holder from responsibility for any claims related to the virtual currency's disposition or the virtual currency itself if the treasurer, by regulation or guideline, exempts the virtual currency from requirements that it be sold and the proceeds remitted to him; and
4. specifies that the charges that may lawfully be withheld from abandoned virtual currency sale proceeds include costs for storage, appraisal, advertising, and sales commissions.

Existing law requires holders to pay or deliver abandoned property and report on the property to the state treasurer within 90 days after the end of the calendar year in which the property is presumed abandoned. For both safe deposit box property and virtual currency, the bill requires the property holder to sell the property and deliver the proceeds within 30 days after reporting the property to the treasurer (but, presumably, still within the 90-day window established by existing law).

Tangible Personal Property

Existing law allows the holder of abandoned personal property from a safe deposit box to contract with a third party to store and sell the property and pay the proceeds to the treasurer, as long as the third party is bonded or insured in performing these activities. The bill modifies this

authority to cover holders of any tangible personal property, and in doing so extends the liability protections described above for sales and transfers of safe deposit property and virtual currency.

§§ 3 & 4 — NOTIFICATIONS

Notice to the Owner

By law, before property is presumed abandoned, the holder of the property must notify the property owner that the owner must indicate his or her interest in the property or it will be transferred to the treasurer and subject to escheat to the state. The bill requires holders to take reasonable steps to prevent property from being presumed abandoned by, at least, sending this notice by email if the owner has consented to electronic delivery for notices required by law, in addition to first-class mail as required by existing law. The bill specifies that these provisions may not be interpreted to require an owner to agree to electronic notices for communications regarding unclaimed property.

Additionally, for any abandoned security, virtual currency, or tangible property from a safe deposit box, the notice provided must indicate that the (1) property may be liquidated before or after its reporting to the state treasurer and (2) owner's claim is limited to the liquidation's proceeds.

For wages, salaries, or compensation or utility deposits, refunds, or other sums, the bill requires that holders send the mail and email notices at least 180 days before the property is presumed abandoned, rather than within 180 days before as current law requires for the mailed notice. As under existing law, for other property, holders must send these notices within a year before the property is presumed abandoned.

Report to the Treasurer

Existing law generally requires property holders, within 90 days after the end of the calendar year in which property is presumed abandoned, to deliver it to the treasurer and prepare an unclaimed property report that includes, among other things, the name and physical address of the property's apparent owner. The bill additionally requires holders to report the owner's last-known email address and telephone number, if

any.

Notice by Treasurer

Current law generally requires the treasurer to notify by first-class mail each person (1) reported as the apparent owner of abandoned property during the preceding calendar year and (2) for whom the holder reported a last-known address. The bill requires him to provide this notice (1) in a manner he deems appropriate, rather than only by first-class mail, and (2) to anyone for whom the holder reported a last-known email address or telephone number.

§ 5 — PAYMENTS FOR PROPERTY OF DECEASED OWNERS

Under the bill, the treasurer may, subject to certain conditions, make direct payments to claimants for specified unclaimed property of deceased owners without the claimant having (1) been granted a decree to transfer personal property, (2) been issued a current fiduciary certificate, or (3) secured any other similar document. Specifically, the treasurer may do so if the unclaimed property is (1) solely owned by the deceased owner and (2) valued at less than \$500 in total at the time of claim.

The first of these conditions is if a claimant provides a certified claim and sworn affidavit (under penalty of perjury) showing that they are entitled to the property and (1) no affidavit in lieu of administration or similar petition has been filed in probate court or (2) more than a year has passed since the last decree to transfer personal property or other similar document was issued. The affidavit must (1) be in a form the treasurer requires and (2) include, at least, the claimant's affirmation he or she is the sole heir or attestations from all other heirs with a valid claim to the property confirming the property's rightful distribution under the law.

The second condition is if the claimant provides the same certified claim and sworn affidavit and the probate court appointed a fiduciary for the decedent's estate, but the estate was closed more than a year before the unclaimed property was discovered. The affidavit must at least include (1) the claimant's affirmation that he or she was the

previously appointed fiduciary and will distribute the funds as required by law or (2) attestations from any rightful heirs or beneficiaries confirming the property's rightful distribution under the law.

The bill specifies that payment of the amount owed under these provisions constitutes a full acquittance and release of the state for the amount paid. Claimants paid by the treasurer in good faith are answerable to anyone negatively affected by an improper distribution or payment under these provisions. Further, the bill specifies that these provisions may not be construed to modify or eliminate a claimant's responsibilities under state or federal law.

§ 6 — DELETED BY SENATE AMENDMENT “B”

§§ 7 & 8 — TAX DATA SHARING

The bill requires the treasurer and DRS commissioner to enter into a data-sharing agreement to allow for the disclosure of tax return information (see BACKGROUND) and other relevant information in the commissioner's possession to the treasurer to facilitate the (1) identification of unclaimed property owners and (2) payment of claims via direct deposit or other electronic means. The bill specifies that this agreement may not unnecessarily delay or impede the treasurer's ability to comply with the law's requirements for an unclaimed property payment. The bill also makes a conforming change to allow the DRS commissioner to disclose return information for these purposes.

BACKGROUND

Tax Returns and Return Information

By law, a “return” is any of the following filed with the DRS commissioner by, on behalf of, or with respect to, anyone: (1) a tax or information return; (2) an estimated tax declaration; (3) a refund claim; or (4) any license, permit, registration, or other application. The term also covers amendments or supplements, including supporting schedules, attachments, or lists that supplement or are part of a filed return.

“Return information” includes:

1. a taxpayer's identity;
2. the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax collected or withheld, tax under- or over-reporting, or tax payments; and
3. any other data received, recorded, prepared, or collected by or furnished to the DRS commissioner about (a) a return or (b) any determination of liability for a tax, penalty, interest, fine, forfeiture, or other imposition or offense (CGS § 12-15(h)(1) & (2)).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 19 Nay 0 (03/26/2024)