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REFERENCE TITLE: unclaimed property; transfer; state treasurer

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HB 2516

Introduced by
Representative Olson

AN ACT

AMENDING TITLE 41, CHAPTER 1, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-180; REPEALING SECTION 42-1116.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS 44-301, 44-306, 44-308, 44-309, 44-311, 44-312, 44-313, 44-314, 44-316 AND 44-317, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; RELATING TO UNCLAIMED PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 41, chapter 1, article 4, Arizona Revised Statutes, is amended by adding section 41-180, to read:

41-180. State treasurer administrative fund

A. THE STATE TREASURER ADMINISTRATIVE FUND IS ESTABLISHED CONSISTING OF MONIES FROM UNCLAIMED PROPERTY DEPOSITED IN THE FUND PURSUANT TO SECTION 44-313. THE STATE TREASURER SHALL ADMINISTER THE FUND.

B. SUBJECT TO LEGISLATIVE APPROPRIATION, THE STATE TREASURER SHALL USE MONIES IN THE FUND SOLELY FOR THE ADMINISTRATIVE COSTS OF THE OFFICE.

Sec. 2. Repeal; transfer of monies

A. Section 42-1116.01, Arizona Revised Statutes, is repealed.

B. All unexpended and unencumbered monies remaining in the department of revenue administrative fund established by section 42-1116.01, Arizona Revised Statutes, as repealed by subsection A of this section, are transferred to the state treasurer administrative fund established by section 41-180, Arizona Revised Statutes, as added by this act, on the effective date of this section.

Sec. 3. Section 44-301, Arizona Revised Statutes, is amended to read:

44-301. Definitions

In this chapter, unless the context otherwise requires:

1. "Apparent owner" means a person whose name appears on the records of a holder as the person entitled to property held, issued or owing by the holder.

2. "Business association" means any corporation, joint stock company, investment company, partnership, limited partnership, registered limited liability partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, mutual fund, utility or other business entity, whether for profit or not for profit, that consists of one or more persons.

3. "De minimis property" means any account balances of business associations of ~~fifty dollars~~ $50 or less THAT IS payable to another business association.

~~4. "Department" means the department of revenue.~~

~~5. "Director" means the director of the department of revenue.~~

~~6.~~ 4. "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of a holder other than a corporation.

~~7.~~ 5. "Financial organization" means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization or credit union.

~~8.~~ 6. "Holder" means a person who is obligated to hold for the account of or deliver or pay to the owner property that is subject to this chapter.

~~9.~~ 7. "Insurance company" means an association, corporation or fraternal or mutual benefit society or organization, whether for profit or not for profit, that is 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 insurance.

~~10.~~ 8. "Mineral" means gas, oil, coal, sand, gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloid and other clay, steam and other geothermal resource or any other substance defined as a mineral in sections 27-231 and 27-901.

~~11.~~ 9. "Mineral proceeds" means the amounts payable for the extraction, production or sale of minerals or, if those amounts are abandoned, all payments that become payable after the abandonment. Mineral proceeds include amounts payable:

(a) For the acquisitions and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties and delay rentals.

(b) For the extraction, production or sale of minerals, including net revenue interest, royalties, overriding royalties, extraction payments and production payments.

(c) Under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement and farm out agreement.

~~12.~~ 10. "Money order" includes an express money order and a personal money order on which the remitter is the purchaser. Money order does not include a bank money order or any other instrument that is sold by a financial organization if the seller has obtained the name and address of the payee.

~~13.~~ 11. "Owner" means a person who has a legal or equitable interest in property that is subject to this chapter or the person's legal representative. Owner includes a depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust and a creditor, claimant or payee in the case of other property.

~~14.~~ 12. "Person" means an individual, business association, financial organization, estate, trust, government, governmental subdivision, agency or instrumentality or any other legal or commercial entity.

~~15.~~ 13. "Property":

(a) Means tangible property pursuant to section 44-303 or a fixed and certain interest in intangible property that is held, issued or owed in the course of a holder's business or by a government, governmental subdivision, agency or instrumentality and all income or increments from that property. ~~Property~~

(b) Does not include de minimis property, property of a person who is maintaining a current business relationship with the holder, monies collected pursuant to section 46-441 and property that is referred to or evidenced by gift certificates, electronic gift cards, nonrefundable tickets, certificates evidencing property denominated in value other than a currency, including prepaid phone cards, frequent flyer miles, stored value cards and merchandise points. ~~Property~~

(c) Includes property that is referred to as or evidenced by any of the following:

~~(a)~~ (i) Money or any check, draft, deposit, interest or dividend.

~~(b)~~ (ii) Any credit balance, customer's overpayment, security deposit, refund, credit memorandum, unpaid wage, unused ticket, mineral proceeds or unidentified remittance.

~~(c)~~ (iii) Any stock or other evidence of ownership of an interest in a business association or financial organization.

~~(d)~~ (iv) Any bond, debenture, note or other evidence of indebtedness.

~~(e)~~ (v) Money deposited to redeem stocks, bonds, coupons or other securities or to make distributions.

~~(f)~~ (vi) An amount due and payable under the terms of an annuity or insurance policy, including policies that provide life, property, casualty, workers' compensation, health or disability insurance.

~~(g)~~ (vii) An amount distributable from a trust or custodial fund that is established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings or supplemental unemployment insurance or similar benefits.

~~16.~~ 14. "Record" means information that is inscribed on a tangible medium or that is stored in any electronic or other medium and that is retrievable in a perceivable form.

~~17.~~ 15. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession that is subject to the jurisdiction of the United States.

~~18.~~ 16. "Utility" has the same meaning prescribed in section 40-491.

Sec. 4. Section 44-306, Arizona Revised Statutes, is amended to read:

44-306. Burden of proof as to property evidenced by record of check or draft

A record of the issuance of a check, draft or similar instrument is prima facie evidence of an obligation. In claiming property from a holder who is also the issuer, the ~~department's~~ STATE TREASURER'S burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the instrument and passage of the requisite period of abandonment. Defenses of payment, satisfaction, discharge and want of consideration are affirmative defenses and are the burden of the holder to establish.

Sec. 5. Section 44-308, Arizona Revised Statutes, is amended to read:

44-308. Payment or delivery of abandoned property

A. On filing the report prescribed in section 44-307, the holder of property that is presumed abandoned shall pay, deliver or cause to be paid or delivered to the ~~department~~ STATE TREASURER the property described in the report as unclaimed. If the property is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended until a penalty or forfeiture would no longer result. The holder of tangible property held in a safe deposit box or any other safekeeping depository shall deliver the property to the ~~department~~ STATE TREASURER on filing the report prescribed in section 44-307.

B. If the property reported to the ~~department~~ STATE TREASURER is a security or security entitlement pursuant to title 47, chapter 8, the ~~department~~ STATE TREASURER may make an endorsement, instruction or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with title 47, chapter 8.

C. If the holder of property reported to the ~~department~~ STATE TREASURER is the issuer of a certificated security, the ~~department~~ STATE TREASURER has the right to obtain a replacement certificate pursuant to section 47-8405, but an indemnity bond is not required.

D. An issuer, the holder and any transfer agent or other person who acts pursuant to the instructions and on behalf of the issuer or holder in accordance with this section are not liable to the apparent owner and are indemnified against all claims of any person in accordance with section 44-310.

E. Each month a holder of property reported pursuant to section 44-307, subsection H shall remit the property with the report of property presumed abandoned or other form prescribed by the ~~department~~ STATE TREASURER.

Sec. 6. Section 44-309, Arizona Revised Statutes, is amended to read:

44-309. Notice and publication of abandoned property

A. The ~~department~~ STATE TREASURER shall publish a notice at least semiannually with a toll free telephone number and directing the public to the ~~department's~~ STATE TREASURER'S website regarding abandoned property that has been paid or delivered to the ~~department~~ STATE TREASURER. The ~~department~~ STATE TREASURER shall cause the notice to be published in a newspaper of general circulation in each county. The ~~department~~ STATE TREASURER shall also cause the notice to either be published on social media or broadcast on radio or published or broadcast by any other means that in the judgment of the ~~department~~ STATE TREASURER is likely to attract the attention of the apparent owner of the unclaimed property. The ~~department's~~ STATE TREASURER'S website shall contain all of the following information not later than November 30 of the year after the year in which abandoned property has been paid or delivered to the ~~department~~ STATE TREASURER:

1. The name of each person that appears to be the owner of the property as stated in the report filed by the holder.

2. The last known address or location of each person that appears to be the owner of the property, if an address or location is stated in the report filed by the holder.

3. A statement that explains that the property of the owner is presumed abandoned and is in the protective custody of the ~~department~~ STATE TREASURER.

4. A statement that on request to the ~~department~~ STATE TREASURER information about the property and its return to the owner is available to a person who has a legal or beneficial interest in the property.

B. The ~~department's~~ STATE TREASURER'S website is not required to contain the name, address or location of an owner of property that has a total value of less than ~~fifty dollars~~ $50 or information concerning a traveler's check, money order or similar instrument.

C. The ~~department~~ STATE TREASURER shall publish annually the estimated total dollar amount of unclaimed property on the home page of the ~~department's~~ STATE TREASURER'S unclaimed property website.

Sec. 7. Section 44-311, Arizona Revised Statutes, is amended to read:

44-311. Crediting of owner's account; interest

A. A holder shall not cease payment of interest on an interest bearing demand, savings or time deposit, including a deposit that is automatically renewable, unless all of the following conditions apply:

1. There is an enforceable written contract between the holder and the owner of the property that allows the holder to impose the charges or cease payment of interest.

2. For property that is more than ~~two dollars~~ $2, not more than three months before the initial cessation of interest the holder gave written notice to the owner at the last known address of the owner that stated that interest would cease.

3. The holder regularly ceases payment of interest and does not regularly retroactively credit interest on that type of property.

B. If property other than money is delivered to the ~~department~~ STATE TREASURER pursuant to this chapter, the ~~department~~ STATE TREASURER shall provide the owner with any income or gain realized or accruing on the property at or before liquidation or conversion of the property to money. If the property delivered to the ~~department~~ STATE TREASURER is an interest bearing demand, savings or time deposit, including a deposit that is automatically renewable, the ~~department~~ STATE TREASURER shall pay interest at the legal rate or any lesser rate that the property earned while in the possession of the holder. Interest begins to accrue when the property is delivered to the ~~department~~ STATE TREASURER and ceases ten years after delivery or on the date the ~~department~~ STATE TREASURER pays the owner, whichever occurs first.

Sec. 8. Section 44-312, Arizona Revised Statutes, is amended to read:

44-312. Public sale of abandoned property

A. Except as otherwise provided in this section, within three years after receiving abandoned property the ~~department~~ STATE TREASURER shall sell the property to the highest bidder at a public sale at a location in this state that in the judgment of the ~~department~~ STATE TREASURER affords the most favorable market for the property. The ~~department~~ STATE TREASURER may decline the highest bid and reoffer the property for sale if the ~~department~~ STATE TREASURER considers the bid to be insufficient. The ~~department~~ STATE TREASURER is not required to offer the property for sale if the ~~department~~ STATE TREASURER determines that the probable cost of the sale will exceed the proceeds from the sale. Before conducting a sale pursuant to this section, the ~~department~~ STATE TREASURER shall cause a notice to be published at least three weeks before the sale in a newspaper of general circulation in the county in which the sale will occur.

B. The ~~department~~ STATE TREASURER shall sell securities that are listed on an established stock exchange at prices prevailing on the exchange at the time of the sale. The ~~department~~ STATE TREASURER may sell other securities over the counter at prices prevailing at the time of the sale or by any reasonable method selected by the ~~department~~ STATE TREASURER.

C. A person who makes a claim pursuant to this chapter for securities is entitled to receive from the ~~department~~ STATE TREASURER the securities that the holder delivered to the ~~department~~ STATE TREASURER if the securities remain in the ~~department's~~ STATE TREASURER'S custody or the person is entitled to receive the net proceeds of the sale. Except in a case of intentional misconduct or malfeasance by the ~~department~~ STATE TREASURER, the person is not entitled to receive any appreciation in the value of the property that occurred after the delivery to the ~~department~~ STATE TREASURER.

D. A purchaser of property at a sale conducted by the ~~department~~ STATE TREASURER pursuant to this chapter takes the property free of all claims of the owner or previous holder and of all persons claiming through or under the owner or previous holder. The ~~department~~ STATE TREASURER shall execute all documents necessary to complete the transfer of ownership.

Sec. 9. Section 44-313, Arizona Revised Statutes, is amended to read:

44-313. Deposit of monies

A. Except as otherwise provided in this section or section 44-314, the ~~department~~ STATE TREASURER shall deposit, pursuant to sections 35-146 and 35-147, in the state general fund all monies received pursuant to this chapter, including the proceeds from the sale of abandoned property pursuant to section 44-312, except that:

1. The first ~~two million dollars~~ $2,000,000 of the monies shall be deposited each fiscal year in the seriously mentally ill housing trust fund established by section 41-3955.01.

2. The second ~~two million five hundred thousand dollars~~ $2,500,000 of the monies shall be deposited in the housing trust fund established by section 41-3955.

3. The next ~~twenty-four million five hundred thousand dollars~~ $24,500,000 of the monies shall be deposited each fiscal year in the ~~department of revenue administrative fund established by section 42-1116.01~~ STATE TREASURER ADMINISTRATIVE FUND ESTABLISHED BY SECTION 41-180.

B. The ~~department~~ STATE TREASURER shall deposit monies from unclaimed shares and dividends of any corporation incorporated under the laws of this state in the permanent state school fund pursuant to article XI, section 8, Constitution of Arizona.

C. The ~~department~~ STATE TREASURER shall deposit monies from unclaimed victim restitution payments in the victim compensation and assistance fund established by section 41-2407 for the purpose of establishing, maintaining and supporting programs that compensate and assist victims of crime.

D. The ~~department~~ STATE TREASURER shall retain in a separate trust fund at least ~~one hundred thousand dollars~~ $100,000 from which the ~~department~~ STATE TREASURER shall pay claims.

E. Before making the deposit, the ~~department~~ STATE TREASURER shall record the name and last known address of each person who appears from the holders' reports to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary. The ~~department~~ STATE TREASURER shall also record the policy or contract number of each policy or contract of an insurance company that is listed in the report, the name of the company and the amount due. The ~~department~~ STATE

TREASURER shall make the record available for public inspection during reasonable business hours.

Sec. 10. Section 44-314, Arizona Revised Statutes, is amended to read:

44-314. Federal deposit insurance corporation trust fund; temporary custody; interest

A. The federal deposit insurance corporation trust fund is established consisting of monies the ~~department~~ STATE TREASURER receives from the federal deposit insurance corporation under the unclaimed deposits amendments act of 1993 (P.L. 103-44; 107 Stat. 220; 12 United States Code section 1822(e)). The ~~department~~ STATE TREASURER shall administer the fund. Monies in the fund are continuously appropriated.

B. If the monies deposited in the federal deposit insurance corporation trust fund are not claimed by the owner within ten years after being surrendered to the ~~department~~ STATE TREASURER, the ~~department~~ STATE TREASURER shall return the monies to the federal deposit insurance corporation.

C. This state retains all interest earned on the monies in the federal deposit insurance corporation trust fund. The interest earned on the monies in the federal deposit insurance corporation trust fund shall be credited as follows:

1. Sixty-five ~~per cent~~ PERCENT in the state general fund.

2. Thirty-five ~~per cent~~ PERCENT in the housing trust fund established by section 41-3955.

Sec. 11. Section 44-316, Arizona Revised Statutes, is amended to read:

44-316. Claim of another state to recover property

A. After property has been paid or delivered to the ~~department~~ STATE TREASURER pursuant to this chapter, another state may recover the property if any of the following applies:

1. The property was paid or delivered to the custody of this state because the records of the holder did not indicate a last known location of the apparent owner within the borders of the other state and the other state establishes that the apparent owner or other person who is entitled to the property was last known to be located within the borders of that state and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state.

2. The property was paid or delivered to the custody of this state because at the time of the payment or delivery the laws of the other state did not provide for the escheat or custodial taking of the property, but after the payment or delivery the other state enacts laws that cause the property to escheat or become subject to a claim of abandonment by that state.

3. The records of the holder did not accurately identify the owner of the property and the last known location of the owner within the borders of another state and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state.

4. The property was subjected to custody by this state pursuant to section 44-304, paragraph 6 and under the laws of the state of domicile of the holder the property has escheated or become subject to a claim of abandonment by that state.

5. The property is a sum that is payable on a traveler's check, money order or similar instrument that was purchased in the other state and delivered to the custody of this state pursuant to section 44-304, paragraph 7 and under the laws of the other state the property has escheated or become subject to a claim of abandonment by that state.

B. In order to file a claim to recover escheated or abandoned property, another state shall present the claim in a form prescribed by the ~~department~~ STATE TREASURER. The ~~department~~ STATE TREASURER shall decide the claim within ninety days after the claim is presented. The ~~department~~ STATE TREASURER shall allow the claim on determining that the other state is entitled to the abandoned property pursuant to subsection A of this section.

C. Before recovering property under this section, the ~~department~~ STATE TREASURER shall require the other state to agree to indemnify this state and its officers and employees against any liability on a claim to the property.

Sec. 12. Section 44-317, Arizona Revised Statutes, is amended to read:

44-317. Filing claim with state treasurer

A. Any person, excluding another state, who claims property that was paid or delivered to the ~~department~~ STATE TREASURER may file a claim on a form prescribed by the ~~department~~ STATE TREASURER and verified by the claimant.

B. Within ninety days after a claim is filed the ~~department~~ STATE TREASURER shall allow or deny the claim and shall give written notice of the decision to the claimant. If the claim is denied the ~~department~~ STATE TREASURER shall inform the claimant of the reasons for the denial and shall specify what additional evidence is required before the claim will be allowed. The claimant may then file a new claim with the ~~department~~ STATE TREASURER or may maintain an action pursuant to section 44-318.

C. Within thirty days after a claim is allowed the ~~department~~ STATE TREASURER shall deliver the property or pay the net proceeds of a sale of the property to the claimant, including any dividend, interest or other increment to which the claimant is entitled pursuant to sections 44-311 and 44-312.

D. A holder who pays the owner for property that has been delivered to the ~~department~~ STATE TREASURER and that if claimed from the ~~department~~ STATE TREASURER by the owner would be subject to an increment pursuant to sections 44-311 and 44-312 shall recover from the ~~department~~ STATE TREASURER the amount of the increment.

E. Notwithstanding any other maximum time period that is specified in a statute, contract or court order to commence or enforce an action to obtain payment of a claim for monies or recovery of property, a person may file a claim under subsection A of this section within thirty-five years after the final day of the fiscal year in which the ~~department~~ STATE TREASURER receives the unclaimed property.

Sec. 13. Conforming legislation

The legislative council staff shall prepare proposed legislation conforming the Arizona Revised Statutes to the provisions of this act for consideration in the fifty-seventh legislature, second regular session.