

2019 Regular Session

HOUSE BILL NO. 292

BY REPRESENTATIVES BARRAS AND GAROFALO

FUNDS/FUNDING: Dedication of unclaimed property funds and creation of Louisiana Unclaimed Property Permanent Trust Fund and Louisiana Unclaimed Property Support Fund

1 AN ACT

2 To amend and reenact R.S. 9:165(C)(3) and to enact Subpart T of Part II of Chapter 1 of

3 Title 39 of the Louisiana Revised Statutes of 1950, to be comprised of R.S.

4 39:100.147, relative to unclaimed property; to provide for the dedication and credit

5 of unclaimed property monies; to provide for the creation of special funds; to provide

6 for the investment and administration of the monies in the special funds; to provide

7 for the use of monies in the special funds; to provide for the reporting requirements

8 of the monies in the special funds; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 9:165(C)(3) is hereby amended and reenacted to read as follows:

11 §165. Deposit of funds

12 * * *

13 C.

14 * * *

15 (3) All unexpended and unencumbered monies in the Unclaimed Property

16 Leverage Fund, the I-49 North Account, and the I-49 South Account at the end of the

17 fiscal year shall ~~remain in the Unclaimed Property Leverage Fund, the I-49 North~~

18 ~~Account, and the I-49 South Account and interest earned on the investment of these~~

19 ~~monies shall be credited to the Unclaimed Property Leverage Fund, the I-49 North~~

1 ~~Account, and the I-49 South Account~~ be credited into the Louisiana Unclaimed
2 Property Permanent Trust Fund by the state treasurer.

3 Section 2. Subpart T of Part II of Chapter 1 of Title 39 of the Louisiana Revised
4 Statutes of 1950, comprised of R.S. 39:100.147 is hereby enacted to read as follows:

5 SUBPART T. LOUISIANA UNCLAIMED PROPERTY TRUST FUND

6 §100.147. Louisiana Unclaimed Property Trust Fund

7 A. There shall be established in the state treasury as a special permanent trust
8 fund, the Louisiana Unclaimed Property Permanent Trust Fund, hereinafter referred
9 to as the "UCP Permanent Trust Fund", and a special fund, the Louisiana Unclaimed
10 Property Support Fund, hereinafter referred to as the "UCP Support Fund."

11 (1) The purpose of the UCP Permanent Trust Fund is to provide a source of
12 payment of claims made by owners of unclaimed property. Notwithstanding the
13 allocation of money to the Bond Security and Redemption Fund as provided in
14 Article VII, Section 9(B) of the constitution, the treasurer shall at least annually
15 deposit in and credit to the UCP Permanent Trust Fund, the net amount of all monies
16 received as a result of the Uniform Unclaimed Property Act as established in R.S.
17 9:151 et seq. No appropriation shall be made from the UCP Permanent Trust Fund.

18 (2) The purpose of the UCP Support Fund is to ensure a source of funds for
19 the unclaimed property revolving loan commission established by law.
20 Notwithstanding the allocation of money to the Bond Security and Redemption Fund
21 as provided in Article VII, Section 9(B) of the constitution, the treasurer shall deposit
22 in and credit to the UCP Support Fund, the following:

23 (a) Interest income earned on investment of monies in the UCP Permanent
24 Trust Fund.

25 (b) Realized capital gains on investment of the UCP Permanent Trust Fund.

26 (c) Dividend income earned on investment of the UCP Permanent Trust
27 Fund.

28 (d) All monies received as repayment of loans made through the state capital
29 outlay revolving loan commission, as established by law.

1 (e) All proceeds from the sale of securities held by the Unclaimed Property
2 Division.

3 (3) All monies shall be credited to the respective funds as provided in
4 Paragraphs (1) and (2) of this Subsection until the balance in the UCP Permanent
5 Trust Fund equals the amount of the state's potential liability to unclaimed property
6 claimants as reported in the previous fiscal year by the state treasurer. All money
7 received above the state's potential liability to unclaimed property claimants as
8 reported by the state treasurer shall be deposited into the UCP Support Fund.

9 B. The money credited to the UCP Permanent Trust Fund pursuant to
10 Subsection A of this Section shall be permanently credited to the UCP Permanent
11 Trust Fund and shall be invested by the treasurer. Notwithstanding any provision of
12 the constitution or other law to the contrary, a portion of money in the UCP
13 Permanent Trust Fund, not to exceed fifty percent, may be invested in equities. The
14 amounts in the UCP Support Fund shall be available for appropriation to pay
15 expenses incurred in the investment and management of the UCP Permanent Trust
16 Fund.

17 (1) The monies deposited in and permanently credited to the UCP Permanent
18 Trust Fund pursuant to Subsection A of this Section shall be invested by the state
19 treasurer.

20 (2) The state treasurer is authorized and directed to invest the monies
21 deposited in and credited to the UCP Permanent Trust Fund that are available for
22 investment in the investments permitted for the Louisiana Education Quality Trust
23 Fund as set forth in R.S. 17:3803(B), (D), and (E).

24 (3) The state treasurer may contract, subject to the approval of the State
25 Bond Commission, for the management of such investments. The earnings on
26 investments from the fund shall be available to pay expenses incurred for outside
27 investment managers for the investment and management of the fund and for other
28 custody, investment, and disbursement costs directly attributable to the fund, and as
29 otherwise provided for in this Section.

1 (4) Expenses attributable to the state treasurer exercising responsibility for
2 the custody, investment, and disbursement of the monies in the fund are
3 administrative costs properly paid out of the earnings on investments from the fund
4 and shall be paid by appropriation from the earnings. Costs include those costs
5 attributable to fees charged by any financial institution for providing custodial
6 services, which shall not exceed two percent of the amount managed, cost incurred
7 for outside investment managers for the investment and management of the fund,
8 which shall not exceed two percent of the amount managed and other direct costs
9 incurred by the state treasurer.

10 C.(1) The state treasurer shall annually submit to the legislature and the
11 governor, not less than sixty days prior to the beginning of each regular session of
12 the legislature, a report of the following:

13 (a) The balance of the UCP Permanent Trust Fund and UCP Support Fund
14 as of the close of the prior fiscal year.

15 (b) The state's potential liability to unclaimed property claimants as of the
16 close of the prior fiscal year.

17 (2) If unclaimed property claims exceed receipts, the state treasurer shall
18 certify such and allocate sufficient funds from the UCP Permanent Trust Fund to pay
19 the amount that claims have exceeded receipts, and immediately notify the
20 legislature and governor of the amount transferred from the UCP Permanent Trust
21 Fund and amount remaining in the UCP Permanent Trust Fund.

22 D.(1) Property received by the state pursuant to the Uniform Unclaimed
23 Property Act as established in R.S. 9:151 et seq., and deposited into the UCP
24 Permanent Trust Fund is private property held in trust until a claim is made for it by
25 the owner.

26 (2) The legislature shall establish by law an unclaimed property revolving
27 loan commission, which shall administer a revolving loan program for the benefit of
28 local governmental subdivisions, political subdivisions, or municipalities as defined
29 in Article VI, Section 44 of the constitution.

1 (3) Money in the UCP Support Fund may be transferred by the state treasurer
 2 for use by the unclaimed property revolving loan commission to make loans.

3 (4) The monies disbursed from the UCP Support Fund for use as revolving
 4 loans shall not displace, replace, or supplant appropriations from the state general
 5 fund (direct) or any other specific constitutional or statutory dedication to local
 6 governmental subdivisions, political subdivisions, or municipalities in existence on
 7 July 1, 2020.

8 Section 3. This Act shall take effect and become operative if and when the proposed
 9 amendment of Article VII, Section 28 of the Constitution of Louisiana contained in the Act
 10 which originated as House Bill No. 291 of this 2019 Regular Session of the Legislature is
 11 adopted at a statewide election and becomes effective.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 292 Reengrossed

2019 Regular Session

Barras

Abstract: Creates the La. Unclaimed Property Permanent Trust Fund (UCP Permanent Trust Fund) to fund claims made by owners of unclaimed property, and the La. Unclaimed Property Support Fund (UCP Support Fund) to fund a revolving loan commission for local government infrastructure.

Present law credits all unexpended and unencumbered monies for I-49 and the interest earned on the investment of the monies to the Unclaimed Property Leverage Fund.

Proposed law changes present law by crediting all unexpended and unencumbered monies for I-49 into the Unclaimed Property Leverage Fund and at the end of the fiscal year credits all remaining monies into the UCP Permanent Trust Fund.

Present law requires the treasurer to deposit all unclaimed property funds received into the Bond Security and Redemption Fund, minus \$500,000 in a separate trust fund to pay claims, and record the identification information for persons entitled to the property. Further, the treasurer may deduct monies for the cost for auditing and administration of the fund. The treasurer shall deposit \$15 million each fiscal year into the Unclaimed Property Leverage Fund for I-49 for usage of the funds.

Proposed law creates the UCP Permanent Trust Fund and credits all monies received as a result of the unclaimed property pursuant to present law and the Unclaimed Property Leverage Fund into the UCP Permanent Trust Fund after making deposits pursuant to present law. The UCP Permanent Trust Fund is to be used solely for the payment of claims made by owners. Proposed law prohibits appropriations to be used from the fund.

Proposed law also creates the UCP Support Fund to provide a source of funds for an unclaimed property revolving loan commission. The UCP Support Fund shall be funded by

interest income, realized capital gains, and dividend income from the UCP Permanent Trust Fund, all monies received as repayment of loans made by the unclaimed property revolving loan commission, and proceeds from sales of securities.

Proposed law requires the monies to be deposited into both funds until the UCP Permanent Trust Fund balance equals the state's potential liability for all unclaimed property, then additional monies shall be deposited into the UCP Support Fund.

Proposed law authorizes the state treasurer to invest up to 50% of the monies in the UCP Permanent Trust Fund into the same investment funds permitted by the La. Education Quality Trust Fund and authorizes the treasurer to contract with and pay for the cost of investment managers.

Proposed law requires the state treasurer to submit an annual report including the balance of the funds and the state's potential liability of unclaimed property to the legislature and governor.

Effective if and when the proposed amendment of Article VII, Section 28 of the Constitution of La. contained in the Act which originated as House Bill No. 291 of this 2019 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Amends R.S. 9:165(C)(3); Adds R.S. 39:100.147)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Appropriations to the original bill:

1. Change "the state capital outlay revolving loan bank" to "the unclaimed property revolving loan commission."

The House Floor Amendments to the engrossed bill:

1. Make effective date upon passage and adoption at a statewide election of HB No. 291.
2. Make technical changes.