

SECOND REGULAR SESSION

SENATE BILL NO. 995

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SIFTON.

Read 1st time February 27, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

6310S.011

AN ACT

To repeal sections 447.503, 447.535, 447.536, and 447.547, RSMo, and to enact in lieu thereof five new sections relating to unclaimed property.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 447.503, 447.535, 447.536, and 447.547, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections
3 447.503, 447.535, 447.536, 447.547, and 447.548, to read as follows:

447.503. As used in sections 447.500 to 447.595, unless the context
2 otherwise requires, the following terms mean:

3 (1) "Banking organization", any bank, trust company, or safe deposit
4 company, engaged in business in this state;

5 (2) "Business association", any corporation, joint stock company, business
6 trust, partnership, limited partnership, or any association for business purposes,
7 or any mutual fund or other similar entity, whether operating in the form of a
8 corporation or a trust, including but not limited to any investment companies
9 registered under the federal Investment Company Act of 1940;

10 (3) **"Business credit", any credit offered by one business entity to**
11 **another business entity to be applied in exchange for goods or services**
12 **but does not have a redeemable cash value;**

13 (4) "Engaged in business in this state", any transaction of business within
14 this state sufficient to support personal jurisdiction in the courts of this state;

15 [(4)] (5) "Financial organization", any savings and loan association, credit
16 union, or loan and investment company engaged in business in this state;

17 [(5)] (6) "Holder", any person in possession of property subject to sections
18 447.500 to 447.595 belonging to another, or who is trustee in case of a trust, or

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 is indebted to another on an obligation subject to sections 447.500 to 447.595;

20 [(6)] (7) "Insurance corporation", any association or corporation
21 transacting within this state the business of property insurance or casualty
22 insurance or life insurance on the lives of persons or insurance appertaining
23 thereto, including, but not by way of limitation, endowments and annuities;

24 [(7)] (8) "Military medals", any decoration or award that may be
25 presented or awarded to a member of a unit of the armed forces or national
26 guard;

27 [(8)] (9) "Owner", a depositor in case of a deposit, a beneficiary in case
28 of a trust except a trust defined in section 456.500, the unclaimed property of
29 which has not escheated pursuant to the provisions of section 456.650, a creditor,
30 claimant, or payee in case of other choses in action, or any person having a legal
31 or equitable interest in property subject to sections 447.500 to 447.595, or such
32 person's legal representative;

33 [(9)] (10) "Person", any individual, business association, government or
34 political subdivision, public corporation, public authority, estate, trust except a
35 trust defined in section 456.500, two or more persons having a joint or common
36 interest, or any other legal or commercial entity;

37 [(10)] (11) "Reasonable and necessary diligence as is consistent with good
38 business practice", efforts appropriate to and commensurate with the nature and
39 value of the property at issue; however, the holder shall send a notice regarding
40 the unclaimed property via first class mail postage prepaid, marked "Address
41 Correction Requested". Such letter shall be sent by the holder within twelve
42 months prior to turning the property over to the treasurer. Notwithstanding the
43 provisions of this section, the holder may treat letters sent in the ordinary course
44 of business, first class and "Address Correction Requested" as satisfying the
45 definition of "reasonable and necessary diligence as is consistent with good
46 business practice". The holder may treat notices regarding the unclaimed
47 property as satisfying the "reasonable and necessary standard" for contacting
48 owners. If the postal service provides the holder with additional information as
49 part of the address correction process, the holder shall send second and
50 subsequent notices in the same format as the first notice to any new address
51 provided to the holder;

52 [(11)] (12) "Treasurer", the Missouri state treasurer;

53 [(12)] (13) "Utility", any person who owns or operates within this state,
54 for public use, any plant, equipment, property, franchise, or license for the

55 transmission of communications or the production, storage, transmission, sale,
56 delivery, or furnishing of electricity, water, steam, or gas or who engages in such
57 business in this state.

447.535. 1. All intangible personal property, not otherwise covered by
2 sections 447.500 to 447.595, including any income or increment thereon, and
3 deducting any lawful charges, that is held or owing in this state in the ordinary
4 course of the holder's business and has remained unclaimed by the owner for
5 more than seven years or five years as provided in section 447.536 after it became
6 payable or distributable is presumed abandoned. Intangible personal property
7 where the property is held in a jurisdiction in which the abandonment
8 presumption is less than seven years or five years as provided in section 447.536
9 shall be accepted by the state of Missouri.

10 **2. Notwithstanding any provision to the contrary, any**
11 **outstanding check, draft, credit balance, customer's overpayment, or**
12 **unidentified remittance issued to a business entity or association as**
13 **part of a commercial transaction in the ordinary course of a holder's**
14 **business shall not be presumed abandoned if the holder and such**
15 **business entity or association have an ongoing business relationship.**
16 **An ongoing business relationship shall be deemed to exist if the holder**
17 **has engaged in a commercial, business, or professional transaction**
18 **involving the sale, lease, license, or purchase of goods or services with**
19 **the business entity or association or a predecessor-in-interest of the**
20 **business entity or association within the dormancy period immediately**
21 **following the date of the check, draft, credit balance, customer's**
22 **overpayment, or unidentified remittance giving rise to the unclaimed**
23 **property interest. As used in this subsection, "dormancy period" means**
24 **the period during which the holder may hold the property interest**
25 **before it is presumed to be abandoned. A "predecessor-in-interest" is a**
26 **person or entity whose interest in a business entity or association was**
27 **acquired by its successor-in-interest, whether by purchase of the**
28 **business ownership interest, purchase of business assets, statutory**
29 **merger or consolidation, and includes successive acquisitions by**
30 **whatever means accomplished.**

447.536. Except for the abandonment period for travelers checks and
2 money orders provided for in subdivision (3) of section 447.505; the abandonment
3 period for dissolution of business associations, banking organizations and

4 financial organizations as provided for in section 447.527; and the abandonment
5 period for court-related bond proceeds as provided for in section 447.595; all other
6 abandonment periods referenced in sections 447.505 to 447.595, shall change from
7 seven to five years beginning January 1, 2000, **with the exception of payroll**
8 **checks which shall have the abandonment period reduced from five**
9 **years to three years beginning January 1, 2015.** The abandonment periods
10 provision of this section shall not apply to property which is held pursuant to any
11 resolution, order or trust indenture entered into prior to August 28, 1998, by a
12 city, county, school district, authority, agency or other political subdivision where
13 the abandonment period or other abandonment provision specified in the
14 resolution, order or trust indenture is different than the abandonment period
15 specified in this section.

447.547. 1. Sections 447.500 to 447.595 shall not affect property the title
2 to which is vested in a holder by the operation of a statute of limitations prior to
3 August 13, 1984, nor to any property held in a fiduciary capacity that was
4 unclaimed property prior to August 13, 1974. This subsection shall not apply to
5 property the title to which is vested in the holder when the holder is a federal,
6 state, or local government or governmental subdivision, agency, entity, officer, or
7 appointee thereof.

8 2. Payment and delivery of unclaimed property to the treasurer is not
9 barred by statutes of limitations when title to the property has not vested in the
10 holder prior to August 13, 1984.

11 3. Sections 447.500 to 447.595 shall not apply to final orders, judgments
12 or decrees of distribution or to abandoned property entered by the probate
13 division of the circuit court after August 13, 1984.

14 4. Sections 447.500 to 447.595 shall not apply to institutions chartered
15 pursuant to the provisions of an act of the Congress of the United States known
16 as the Farm Credit Act of 1971 and acts amendatory thereto.

17 5. In addition to other exclusions, sections 447.500 to 447.595 shall not
18 apply to any property that had been unclaimed prior to January 1, 1965, where
19 the holder is a financial organization or banking organization which has a
20 principal place of business in this state.

21 **6. Business credits between two business entities or two business**
22 **associations are not subject to sections 447.500 to 447.595.**

447.548. 1. **The state treasurer shall not enforce this chapter for**
2 **a reportable period more than three years after the holder:**

3 **(1) Filed a report with the state treasurer; or**

4 **(2) Gave express notice to the state treasurer of a dispute under**
5 **this chapter.**

6 **2. If a fraudulent report is filed with the intent to evade**
7 **escheatment of property, the state treasurer may enforce this chapter**
8 **within six years after the report was filed.**

9 **3. If no report is filed, the state treasurer may enforce this**
10 **chapter at any time.**

Unofficial

Bill

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