

LEGISLATIVE BILL 406

Approved by the Governor March 12, 2019

Introduced by Gragert, 40.

A BILL FOR AN ACT relating to the Uniform Disposition of Unclaimed Property Act; to amend sections 24-345, 25-2717, 69-1311, 69-1317, and 69-1321, Reissue Revised Statutes of Nebraska; to change provisions relating to abandoned property notices, disposition of funds, transfers of funds, and duties of the State Treasurer; to harmonize provisions; to repeal the original sections; and to declare an emergency.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 24-345, Reissue Revised Statutes of Nebraska, is amended to read:

24-345 All money, other than witness fees, fines, penalties, forfeitures and license money, that comes into the possession of the clerk of the district court for any county in the State of Nebraska by virtue of his or her office and remains in the custody of the clerk of the district court, uncalled for by the party or parties entitled to the money for a period of three years following the close of litigation in relation to the money, shall be remitted by the clerk of the district court to the State Treasurer on the first Tuesday in January, April, July, or October, respectively, following the expiration of the three-year period, for deposit in the Unclaimed Property Escheat Trust Fund ~~a separate trust fund~~ pursuant to section 69-1317. Such payment shall release the bond of the clerk of the district court making such payment from all liability for the money so paid in compliance with this section.

Sec. 2. Section 25-2717, Reissue Revised Statutes of Nebraska, is amended to read:

25-2717 If any fees, money, condemnation awards, legacies, devises, sums due creditors, or costs due or belonging to any heir, legatee, or other person or persons have not been paid to or demanded by the person or persons entitled to the funds within three years from the date the funds were paid to the county judge or his or her predecessors in office, it shall be the duty of the county judge to notify the State Treasurer of the fees, money, condemnation awards, legacies, devises, sums due creditors, or costs remaining. When directed by the State Treasurer, the county judge shall remit the fees, money, condemnation awards, legacies, devises, sums due creditors, or costs to the State Treasurer for deposit in the Unclaimed Property Escheat Trust Fund ~~a separate trust fund~~ pursuant to section 69-1317. Such payment shall release the bond of the county judge making such payment of all liability for such fees, money, condemnation awards, legacies, devises, sums due creditors, and costs due to heirs, legatees, or other persons paid in compliance with this section.

Sec. 3. Section 69-1311, Reissue Revised Statutes of Nebraska, is amended to read:

69-1311 (a) Between March 1 and March 10 of each year the State Treasurer shall cause notice to be published once in an English language legal newspaper of general circulation in the county in this state in which is located the last-known address of any person to be named in the notice. If no address is known, then the notice shall be published in a legal newspaper having statewide circulation.

(b) The published notice shall be entitled Notice to Owners of Abandoned Property, and shall contain:

(1) The names in alphabetical order and counties of last-known addresses, if any, of persons listed in the report and entitled to notice as provided in subsection (a) of this section.

(2) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the State Treasurer.

(c) The State Treasurer is not required to publish in such notice any item of less than fifty ~~twenty-five~~ dollars unless he or she deems such publication to be in the public interest.

(d) Within one hundred twenty days from the receipt of the report required by section 69-1310, the State Treasurer shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of fifty ~~twenty-five~~ dollars or more presumed abandoned under the Uniform Disposition of Unclaimed Property Act.

(e) The mailed notice shall contain:

(1) A statement that, according to a report filed with the State Treasurer, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is presented by the owner to the State Treasurer, arrangements will be made to transfer the property to the owner as provided by law.

(f) This section is not applicable to sums payable on traveler's checks or money orders presumed abandoned under section 69-1302.

Sec. 4. Section 69-1317, Reissue Revised Statutes of Nebraska, is amended to read:

69-1317 (a)(1) Except as otherwise provided in this subdivision, all funds received under the Uniform Disposition of Unclaimed Property Act, including the proceeds from the sale of abandoned property under section 69-1316, shall be deposited by the State Treasurer into the Unclaimed Property Escheat Trust Fund ~~in a separate trust fund~~ from which he or she shall make prompt payment of claims allowed pursuant to the act and payment of any expenses related to unclaimed property auditing expenses associated with the receipt of abandoned property. All funds received under section 69-1307.05 shall be deposited by the State Treasurer into the Unclaimed Property Escheat Trust Fund ~~in a separate life insurance corporation demutualization trust fund, which is hereby created,~~ from which he or she shall make prompt payment of claims regarding such funds allowed pursuant to the act. Transfers from the Unclaimed Property Escheat Trust Fund ~~separate life insurance corporation demutualization trust fund~~ to the General Fund may be made at the direction of the Legislature. Before making the deposit he or she shall record the name and last-known address of each person appearing from the holders' reports to be entitled to the abandoned property, the name and last-known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection during business hours. The separate life insurance corporation demutualization trust fund terminates on the effective date of this act and the State Treasurer shall transfer any money in the fund on such date to the Unclaimed Property Escheat Trust Fund.

The record shall not be subject to public inspection or available for copying, reproduction, or scrutiny by commercial or professional locators of property presumed abandoned who charge any service or finders' fee until twenty-four months after the names from the holders' reports have been published or officially disclosed. Records concerning the social security number, date of birth, and last-known address of an owner shall be treated as confidential and subject to the same confidentiality as tax return information held by the Department of Revenue, except that the Auditor of Public Accounts shall have unrestricted access to such records.

A professional finders' fee shall be limited to ten percent of the total dollar amount of the property presumed abandoned. To claim any such fee, the finder shall disclose to the owner the nature, location, and value of the property, provide notice of when such property was reported to the State Treasurer, and provide notice that the property may be claimed by the owner from the State Treasurer free of charge. To claim any such fee if the property has not yet been abandoned, the finder shall disclose to the owner the nature, location, and value of the property, provide notice of when such property will be reported to the State Treasurer, if known, and provide notice that, upon receipt of the property by the State Treasurer, such property may be claimed by the owner from the State Treasurer free of charge.

(2) The unclaimed property records of the State Treasurer, the unclaimed property reports of holders, and the information derived by an unclaimed property examination or audit of the records of a person or otherwise obtained by or communicated to the State Treasurer may be withheld from the public. Any record or information that may be withheld under the laws of this state or of the United States when in the possession of such a person may be withheld when revealed or delivered to the State Treasurer. Any record or information that is withheld under any law of another state when in the possession of that other state may be withheld when revealed or delivered by the other state to the State Treasurer.

Information withheld from the general public concerning any aspect of unclaimed property shall only be disclosed to an apparent owner of the property or to the escheat, unclaimed, or abandoned property administrators or officials of another state if that other state accords substantially reciprocal privileges to the State Treasurer.

~~(b)(1) On or after October 6, 1992, the State Treasurer shall periodically transfer any balance in excess of an amount not to exceed five hundred thousand dollars from the separate trust fund to the General Fund no less frequently than on or before November 1 and May 1 of each year, except that the total amount of all such transfers shall not exceed five million dollars.~~

~~(b) (2) On or before November 1 of each year, the State Treasurer shall distribute transfer any balance in excess of one million an amount not to exceed five hundred thousand dollars from the Unclaimed Property Escheat Trust Fund separate trust fund to the permanent school fund.~~

(c) Before making any deposit to the credit of the permanent school fund or the General Fund, the State Treasurer may deduct ~~(1) any costs related to unclaimed property in connection with sale of abandoned property, (2) any costs of mailing and publication in connection with any abandoned property, and (3) reasonable service charges~~ and place such funds in the Unclaimed Property Cash Fund which is hereby created. Transfers from the fund to the General Fund may be made at the direction of the Legislature. Any money in the Unclaimed Property Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 5. Section 69-1321, Reissue Revised Statutes of Nebraska, is amended to read:

69-1321 (a) The State Treasurer or his or her designee, after receiving reports of property deemed abandoned pursuant to the Uniform Disposition of

Unclaimed Property Act, may decline to receive any property reported which he or she deems to have a value less than the cost of giving notice and holding sale, or he or she may, if he or she deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates. Unless the holder of the property is notified to the contrary within one hundred twenty days after filing the report required under section 69-1310, the State Treasurer or his or her designee shall be deemed to have elected to receive the custody of the property.

(b) A holder may pay or deliver property before the property is presumed abandoned with written consent of the State Treasurer or his or her designee and upon conditions and terms prescribed by the State Treasurer or his or her designee. Property paid or delivered under this subsection shall be held by the State Treasurer and is not presumed abandoned until such time as it otherwise would be presumed abandoned under the act.

Sec. 6. Original sections 24-345, 25-2717, 69-1311, 69-1317, and 69-1321, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 7. Since an emergency exists, this act takes effect when passed and approved according to law.